

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative(s) Ambler offered the following:

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsections (1) and (3) of section 390.0111,
6 Florida Statutes, are amended, and subsection (12) is added to
7 that section, to read:

8 390.0111 Termination of pregnancies.--

9 (1) TERMINATION IN THIRD TRIMESTER; WHEN ALLOWED.--No
10 termination of pregnancy shall be performed on any human being
11 in the third trimester of pregnancy unless:

12 (a) The abortion is performed in a hospital; and

13 (b)1. Two physicians certify in writing to the fact that,
14 to a reasonable degree of medical probability, the termination
15 of pregnancy is necessary to save the life or preserve the
16 health of the pregnant woman; or

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17 ~~2.(b)~~ The physician certifies in writing to the medical
18 necessity for legitimate emergency medical procedures for
19 termination of pregnancy in the third trimester, and another
20 physician is not available for consultation.

21 (c) Violation of this subsection by a physician
22 constitutes grounds for disciplinary action under s. 458.331 or
23 s. 459.015.

24 (3) CONSENTS REQUIRED.--A termination of pregnancy may not
25 be performed or induced except with the voluntary and informed
26 written consent of the pregnant woman or, in the case of a
27 mental incompetent, the voluntary and informed written consent
28 of her court-appointed guardian.

29 (a) Except in the case of a medical emergency, consent to
30 a termination of pregnancy is voluntary and informed only if:

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

34 a. The nature and risks of undergoing or not undergoing
35 the proposed procedure that a reasonable patient would consider
36 material to making a knowing and willful decision of whether to
37 terminate a pregnancy.

38 b. The probable gestational age of the fetus at the time
39 the termination of pregnancy is to be performed.

40 c. The medical risks to the woman and fetus of carrying
41 the pregnancy to term.

42 2. Printed materials prepared and provided by the
43 department have been provided to the pregnant woman, if she
44 chooses to view these materials, including:

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- 45 a. A description of the fetus.
- 46 b. A list of agencies that offer alternatives to
47 terminating the pregnancy.
- 48 c. Detailed information on the availability of medical
49 assistance benefits for prenatal care, childbirth, and neonatal
50 care.
- 51 3. The woman acknowledges in writing, before the
52 termination of pregnancy, that the information required to be
53 provided under this subsection has been provided.
- 54
- 55 Nothing in this paragraph is intended to prohibit a physician
56 from providing any additional information which the physician
57 deems material to the woman's informed decision to terminate her
58 pregnancy.
- 59 (b) In the event a medical emergency exists and a
60 physician cannot comply with the requirements for informed
61 consent, a physician may terminate a pregnancy if he or she has
62 obtained at least one corroborative medical opinion attesting to
63 the medical necessity for emergency medical procedures and to
64 the fact that to a reasonable degree of medical certainty the
65 continuation of the pregnancy would threaten the life of the
66 pregnant woman. In the event no second physician is available
67 for a corroborating opinion, the physician may proceed but shall
68 document reasons for the medical necessity in the patient's
69 medical records.
- 70 (c) A physician shall not request a patient to waive her
71 ability to either file a complaint with any disciplinary body or

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72 to litigate a cause of action based on the care received related
73 to an abortion or a violation of her rights.

74 (d) Violation of this subsection by a physician
75 constitutes grounds for disciplinary action under s. 458.331 or
76 s. 459.015. Substantial compliance or reasonable belief that
77 complying with the requirements of informed consent would
78 threaten the life or health of the patient is a defense to any
79 action brought under this paragraph.

80 (12) WAITING PERIOD FOR ABORTION.--No physician shall
81 perform or induce an abortion on a minor patient where notice is
82 not required pursuant to s. 390.01114(3)(b) or on an adult
83 patient unless, at least 24 hours prior thereto, a treating
84 physician has conferred with the patient, or her court-appointed
85 guardian if she is mentally incompetent, pursuant to the
86 requirements set forth in subsection (3). If a medical emergency
87 as defined in s. 390.01114(2)(d) exists, then this subsection
88 shall not apply.

89 Section 2. Section 390.01112, Florida Statutes, is created
90 to read:

91 390.01112 Women's reproductive bill of rights.--

92 (1) All abortion clinics and physician abortion providers
93 shall adopt and make public a statement of the rights of
94 patients seeking abortions and shall treat such patients in
95 accordance with the provisions of that statement. The statement
96 shall assure each patient all of the following:

97 (a) That her abortion must be performed by a physician as
98 defined in s. 390.0111.

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99 (b) That she has the right to know the name, function, and
100 qualifications of each health care provider who is providing
101 medical services to the her. She may request this information
102 from the clinic or physician abortion provider.

103 (c) That she is entitled to know the probable gestational
104 age of the fetus at the time the abortion is to be performed.

105 (d) That if she is in her third trimester of pregnancy,
106 any abortion must be performed at a hospital.

107 (e) That either the patient, or her court appointed
108 guardian if she is mentally incompetent, as set forth in s.
109 390.0111(3) is entitled to provide voluntary and informed,
110 written consent, unless a legal exception to obtaining informed
111 consent exists, before an abortion can be performed or induced.

112 (f) That if she is a minor, her parent or legal guardian
113 as set forth in s. 390.01114(3) is entitled to receive actual or
114 constructive notice, unless a legal exception to compliance with
115 notice requirements exists, before an abortion can be performed
116 or induced.

117 (g) That she is entitled to printed materials containing a
118 description of the fetus, a list of agencies that offer
119 alternatives to terminating the pregnancy, and detailed
120 information on the availability of medical assistance benefits
121 for prenatal care, childbirth, and neonatal care.

122 (h) That she is entitled to be notified of the medical
123 risks of undergoing or not undergoing the proposed procedure
124 that a reasonable patient would consider material to making a
125 knowing and willful decision of whether to terminate the
126 pregnancy.

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127 (i) That she is entitled to notification of the medical
128 risks to her and her fetus of carrying the pregnancy to term.

129 (j) That the clinic, physician, or physician's office is
130 not allowed to require her to waive her right to either file a
131 complaint with any disciplinary body or to litigate a cause of
132 action based on the care received related to an abortion or a
133 violation of her rights in order to obtain an abortion.

134 (k) That she is entitled to have all medical records
135 pertaining to her abortion treatment made, protected, and
136 preserved by the physician abortion provider and clinic, and
137 that copies of her medical records shall be made available to
138 her, a representative of her estate, her court appointed
139 guardian if she is mentally incompetent, or her parent or legal
140 guardian pursuant to s. 390.01114(3)(d), or her legal
141 representative upon request.

142 (l) That she is entitled to any and all adequate,
143 necessary, and appropriate health care related to the
144 performance or inducement of an abortion, including any and all
145 adequate, necessary, and appropriate post-abortion recovery and
146 medical care.

147 (m) That, if she is in her second trimester of pregnancy,
148 she is entitled to receive care that meets all the quality and
149 safety standards set forth in this chapter, including all
150 requirements provided for in s. 390.012(3).

151 (n) That she, or her court-appointed guardian if she is
152 mentally incompetent, has the right to refuse medication or
153 treatment and to be informed of the consequences of such
154 decisions. When the medication or treatment is refused, the

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155 abortion clinic or physician must notify the patient or her
156 court-appointed guardian of the consequences of such decisions
157 and must document the decision in the patient's medical record.
158 The abortion clinic or physician must continue to provide other
159 services that the patient or her court-appointed guardian agrees
160 to in accordance with the patient's care or treatment needs.

161 (o) That she is entitled to have privacy in her treatment
162 and care, and that, except as provided herein or elsewhere in
163 law, her medical records shall remain confidential pursuant to
164 all applicable state and federal laws.

165 (p) That she has the right to a prompt and reasonable
166 response to any question she may have regarding her care or
167 treatment.

168 (q) That she has the right to be treated courteously,
169 fairly, and with the fullest measure of dignity at all times and
170 upon all occasions.

171 (2) All clinics and physician abortion providers shall
172 orally inform patients seeking abortions of their rights as set
173 forth herein and shall provide a copy of the statement as
174 provided in subsection (1) to each patient, or her court-
175 appointed guardian if the patient is mentally incompetent,
176 before performing an abortion. The statement shall itemize each
177 of the rights set forth in subsection (1) separately, including
178 each entitlement in s. 390.012 available to a patient obtaining
179 a second trimester abortion. The clinic or physician practicing
180 in a doctor's office shall provide a copy of the patients' bill
181 of reproductive rights to each staff member of the clinic or
182 physician's office. Each clinic or physician shall prepare a

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183 written plan and provide appropriate staff training to implement
184 the provisions of this section. The written statement of rights
185 must include a statement that a patient may file a complaint
186 with the agency or department. The statement must be in
187 boldfaced, 14-point type and shall include the address and
188 telephone number of the agency or department.

189 (3) Any violation of a patient's rights as set forth in
190 this section by a clinic shall constitute grounds for action by
191 the agency under the provisions of ss. 390.012, 408.813,
192 408.814, and 408.815. Any violation of a patient's rights as set
193 forth in this section by a physician shall constitute grounds
194 for disciplinary action under s. 458.331 or s. 459.015.

195 (4) Any person who submits or reports a complaint
196 concerning a suspected violation of the patient's rights or
197 concerning services or conditions in a clinic or physician's
198 office or who testifies in any administrative or judicial
199 proceeding arising from such complaint shall have immunity from
200 any criminal or civil liability therefor, unless that person has
201 acted in bad faith or with malicious purpose or if the court
202 finds that there was a complete absence of a justiciable issue
203 of either law or fact raised by the losing party.

204 Section 3. Section 390.01113, Florida Statutes, is created
205 to read:

206 390.01113 Civil action for violations of patients' rights;
207 relief.--

208 (1) Any patient whose rights as specified in s. 390.01112
209 are violated has a cause of action against any physician, nurse,
210 or clinic for violation of her rights. The action may be brought
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211 by the patient, her parent, court-appointed or legal guardian,
212 or by personal representative of the estate of the patient
213 regardless of the cause of death to enforce the right.

214 (2) The action may be brought in any court of competent
215 jurisdiction to enforce such rights and to recover actual
216 damages, and punitive damages when malicious, wanton, or willful
217 disregard of the rights of others can be shown. Any plaintiff
218 who prevails in any such action for any amount is entitled to
219 recover reasonable attorney's fees, costs of the action, and
220 damages, unless the court finds that the plaintiff has acted in
221 bad faith or with malicious purpose or that there was a complete
222 absence of a justiciable issue of either law or fact. A
223 prevailing defendant is entitled to recover reasonable
224 attorney's fees under s. 57.105. The remedies provided in this
225 section are in addition to other legal and administrative
226 remedies available to a patient, her estate, or to the agency or
227 department.

228 (3) Attorney's fees shall be based on the following
229 criteria:

230 (a) The time and labor required.

231 (b) The novelty and difficulty of the questions.

232 (c) The skill requisite to perform the legal service
233 properly.

234 (d) The preclusions of other employment by the attorney
235 due to the acceptance of the case.

236 (e) The customary fee.

237 (f) Whether the fee is fixed or contingent.

238 (g) The amount involved or the results obtained.

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239 (h) The experience, reputation, and ability of the
240 attorneys.

241 (i) The costs expended to prosecute the claim.

242 (j) The type of fee arrangement between the attorney and
243 the client.

244 (k) Whether the relevant market requires a contingency fee
245 multiplier to obtain competent counsel.

246 (l) Whether the attorney was able to mitigate the risk of
247 nonpayment in any way.

248 (4) Any action brought under this section is not a claim
249 for medical malpractice, and chapter 766 does not apply. The
250 provisions of s. 768.21(8) do not apply to a claim alleging
251 death of the patient.

252 (5) For purposes of this section, punitive damages may be
253 awarded for conduct that is willful, wanton, gross or flagrant,
254 reckless, or consciously indifferent to the rights of the
255 patient. Sections 768.72, 768.725, and 768.73 do not apply to
256 any civil action filed under this section.

257 Section 4. Subsection (3) and paragraphs (a), (c), and (e)
258 of subsection (4) of section 390.01114, Florida Statutes, are
259 amended to read:

260 390.01114 Parental Notice of Abortion Act.--

261 (3) NOTIFICATION REQUIRED.--

262 (a) 1.a. Actual notice shall be provided by the physician
263 performing or inducing the termination of pregnancy before the
264 performance or inducement of the termination of the pregnancy of
265 a minor. The notice may be given by a referring physician. The
266 physician who performs or induces the termination of pregnancy
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267 must receive the written statement of the referring physician
268 certifying that the referring physician has given notice. If
269 actual notice is provided by telephone, the physician must
270 actually speak with the parent or guardian and must record in
271 the minor's medical file the name of the parent or guardian
272 provided notice, the phone number dialed, and the date and time
273 of the call.

274 b. If actual notice is not possible after a reasonable
275 effort has been made, the physician performing or inducing the
276 termination of pregnancy or the referring physician must give
277 constructive notice. If constructive notice is given, the
278 physician must document that notice by placing copies of any
279 document related to the constructive notice, including, but not
280 limited to, a copy of the letter and the return receipt, in the
281 minor's medical file.

282 2. Notice given under this subsection by the physician
283 performing or inducing the termination of pregnancy must include
284 the name and address of the facility providing the termination
285 of pregnancy and the name of the physician providing notice.
286 Notice given under this subsection by a referring physician must
287 include the name and address of the facility where he or she is
288 referring the minor and the name of the physician providing
289 notice. ~~If actual notice is provided by telephone, the physician~~
290 ~~must actually speak with the parent or guardian, and must record~~
291 ~~in the minor's medical file the name of the parent or guardian~~
292 ~~provided notice, the phone number dialed, and the date and time~~
293 ~~of the call. If constructive notice is given, the physician must~~
294 ~~document that notice by placing copies of any document related~~

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295 ~~to the constructive notice, including, but not limited to, a~~
296 ~~copy of the letter and the return receipt, in the minor's~~
297 ~~medical file.~~

298 (b) Notice is not required if:

299 1. In the physician's good faith clinical judgment, a
300 medical emergency exists and there is insufficient time for the
301 attending physician to comply with the notification
302 requirements. If a medical emergency exists, the physician may
303 proceed but must document reasons for the medical necessity in
304 the patient's medical records;

305 2. Notice is waived in writing by the person who is
306 entitled to notice;

307 3. Notice is waived by the minor who is or has been
308 married or has had the disability of nonage removed under s.
309 743.015 or a similar statute of another state;

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

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

313 (c) Violation of this subsection by a physician
314 constitutes grounds for disciplinary action under s. 458.331 or
315 s. 459.015.

316 (d) Any parent or legal guardian of a minor upon whom a
317 termination of pregnancy has been performed or induced who does
318 not receive actual or constructive notice from the physician
319 performing or inducing the termination of pregnancy, where an
320 exception to notice pursuant to paragraph (b) does not exist,
321 may, in a civil action, obtain appropriate relief, unless the

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322 pregnancy resulted from the parent or legal guardian's criminal
323 conduct.

324 (e) In a civil action under paragraph (d), appropriate
325 relief includes:

326 1. Monetary damages for all injuries, psychological and
327 physical, occasioned by the violation of paragraph(a); and

328 2. Damages equal to three times the cost of the abortion.

329 (f) The damages provided for in paragraph (e) are in
330 addition to any other legal or administrative remedies that may
331 be available to the plaintiff or department.

332 (4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.--

333 (a) A minor may petition any circuit court in a judicial
334 circuit within the jurisdiction of the District Court of Appeal
335 in which she resides for a waiver of the notice requirements of
336 subsection (3) and may participate in proceedings on her own
337 behalf. The petition may be filed under a pseudonym or through
338 the use of initials, as provided by court rule. The petition
339 must include a statement that the petitioner is pregnant and
340 notice has not been waived. The court shall advise the minor
341 that she has a right to court-appointed counsel and shall
342 provide her with counsel upon her request at no cost to the
343 minor. The court shall appoint a guardian ad litem for the
344 minor.

345 (c) If the court finds, by clear and convincing evidence,
346 that the minor is sufficiently mature to decide whether to
347 terminate her pregnancy, the court shall issue an order
348 authorizing the minor to consent to the performance or

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349 inducement of a termination of pregnancy without the
350 notification of a parent or guardian.

351 1. Factors a court shall consider when determining whether
352 a child is sufficiently mature include, but are not limited to,
353 the following:

354 a. Whether the minor is mature enough to make her abortion
355 decision, as evidenced by:

356 (I) The minor's age.

357 (II) The minor's credibility and demeanor as a witness.

358 (III) The minor's ability to accept responsibility; and

359 b. Whether the minor is well informed enough to make the
360 decision on her own, as evidenced by the minor's:

361 (I) Overall intelligence.

362 (II) Emotional development.

363 (III) Ability to assess both the immediate and long range
364 consequences of her choices.

365 (IV) Ability to understand and explain the medical
366 consequences of terminating her pregnancy and to apply that
367 understanding to her decision.

368 2. The court should also take into consideration whether
369 there has been any undue influence by another on the minor's
370 decision to have an abortion.

371

372 If the court does not make the finding specified in this
373 paragraph or paragraph (d), it must dismiss the petition.

374 (e) A court that conducts proceedings under this section
375 shall:

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376 1. Provide for a written transcript of all testimony and
377 proceedings.

378 2. Issue a written final order containing all factual
379 findings and legal conclusions, including factual findings and
380 legal conclusions as to whether the petitioner is sufficiently
381 mature based on the factors set forth in subparagraph(c)1.

382 3. Order that a confidential record be maintained as
383 required under s. 390.01116. All hearings under this section,
384 including appeals, shall remain confidential and closed to the
385 public, as provided by court rule ~~A court that conducts~~
386 ~~proceedings under this section shall provide for a written~~
387 ~~transcript of all testimony and proceedings and issue written~~
388 ~~and specific factual findings and legal conclusions supporting~~
389 ~~its decision and shall order that a confidential record be~~
390 ~~maintained, as required under s. 390.01116. At the hearing, the~~
391 ~~court shall hear evidence relating to the emotional development,~~
392 ~~maturity, intellect, and understanding of the minor, and all~~
393 ~~other relevant evidence. All hearings under this section,~~
394 ~~including appeals, shall remain confidential and closed to the~~
395 ~~public, as provided by court rule.~~

396 Section 5. Section 390.01117, Florida Statutes, is created
397 to read:

398 390.01117 Civil action for negligence; remedies.--

399 (1) Any patient who suffers injury or death as a result of
400 an abortion shall have a cause of action for negligence. The
401 action may be brought by the patient, her parent, court-
402 appointed or legal guardian, or by a personal representative of
403 the estate of the patient regardless of the cause of death to
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404 enforce the right. If the claim involves negligence or injury to
405 the patient that resulted in her death, then the plaintiff shall
406 be entitled to recover both survival damages pursuant to s.
407 46.021 and wrongful death damages pursuant to s. 768.21. If the
408 action alleges a claim for injury to the patient that did not
409 cause her death, the personal representative of the estate may
410 recover damages for negligence that caused injury to the
411 patient.

412 (2) The action may be brought in any court of competent
413 jurisdiction to enforce such rights and to recover actual
414 damages, and punitive damages when malicious, wanton, or willful
415 disregard of the rights of others can be shown. Any plaintiff
416 who prevails in any such action for any amount is entitled to
417 recover reasonable attorney's fees, costs of the action, and
418 damages, unless the court finds that the plaintiff has acted in
419 bad faith or with malicious purpose or that there was a complete
420 absence of a justiciable issue of either law or fact. A
421 prevailing defendant is entitled to recover reasonable
422 attorney's fees pursuant to s. 57.105. The remedies provided in
423 this section are in addition to other legal and administrative
424 remedies available to a patient, her estate, or to the agency or
425 department.

426 (3) Attorney's fees shall be based on the following
427 criteria:

428 (a) The time and labor required.

429 (b) The novelty and difficulty of the questions.

430 (c) The skill requisite to perform the legal service
431 properly.

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432 (d) The preclusions of other employment by the attorney
433 due to the acceptance of the case.

434 (e) The customary fee.

435 (f) Whether the fee is fixed or contingent.

436 (g) The amount involved or the results obtained.

437 (h) The experience, reputation, and ability of the
438 attorneys.

439 (i) The costs expended to prosecute the claim.

440 (j) The type of fee arrangement between the attorney and
441 the client.

442 (k) Whether the relevant market requires a contingency fee
443 multiplier to obtain competent counsel.

444 (l) Whether the attorney was able to mitigate the risk of
445 nonpayment in any way.

446 (4) In any claim brought under this section, the plaintiff
447 shall have the burden of proving by a preponderance of the
448 evidence, the following:

449 (a) The defendant owed a duty to the patient.

450 (b) The defendant breached the duty to the patient.

451 (c) The breach of the duty was a legal cause of loss,
452 injury, death, or damage to the patient.

453 (d) The patient sustained loss, injury, death, or damage
454 as a result of the breach.

455 (5) Nothing in this section shall be interpreted to create
456 strict liability. Injury or death resulting to the patient shall
457 be evidence of negligence, but shall not be negligence per se.

458 (6) In any claim brought under this section, a clinic,
459 person, or entity shall have a duty to exercise reasonable care.

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460 Reasonable care is that degree of care which a reasonably
461 careful clinic, person, or entity would use under like
462 circumstances.

463 (7) In any claim for negligence by a physician, such
464 physician shall have the duty to exercise care consistent with
465 the prevailing professional standard of care for physicians. The
466 prevailing professional standard of care for physicians shall be
467 that level of care, skill, and treatment which, in light of all
468 relevant surrounding circumstances, is recognized as acceptable
469 and appropriate by reasonably prudent similar physicians.

470 (8) In any claim for negligence by a nurse licensed under
471 part I of chapter 464, such nurse shall have the duty to
472 exercise care consistent with the prevailing professional
473 standard of care for a nurse. The prevailing professional
474 standard of care for a nurse shall be that level of care, skill,
475 and treatment which, in light of all relevant surrounding
476 circumstances, is recognized as acceptable and appropriate by
477 reasonably prudent similar nurses.

478 (9) Any action brought pursuant to this section is not a
479 claim for medical malpractice, and chapter 766 does not apply.
480 The provisions of s. 768.21(8) do not apply to a claim alleging
481 death of the patient.

482 (10) For purposes of this section, punitive damages may be
483 awarded for conduct that is willful, wanton, gross or flagrant,
484 reckless or consciously indifferent to the rights of the
485 patient. Sections 768.72, 768.725, and 768.73 do not apply to
486 any civil action filed pursuant to this section.

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487 Section 6. Section 390.01118, Florida Statutes, is created
488 to read:

489 390.01118 Statute of limitations.--Any action for damages
490 brought under ss. 390.01113, 390.01114(3)(d)-(f), and 390.01117
491 shall be commenced within 2 years from the time the incident
492 giving rise to the action occurred or within 2 years from the
493 time the incident is discovered or should have been discovered
494 with the exercise of due diligence.

495 (1) In those actions covered by ss. 390.01113,
496 390.01114(3)(d)-(f), and 390.01117 in which it can be shown that
497 fraudulent concealment or intentional misrepresentation of fact
498 prevented discovery of the injury, the period of limitations is
499 extended forward 2 years from the time the injury is discovered
500 with the exercise of due diligence.

501 (2) In actions where it can be shown that fraudulent
502 concealment or intentional misrepresentation of fact prevented
503 the discovery of the injury, the period of limitations is
504 extended forward 2 years from the time that the injury is
505 discovered with the exercise of due diligence.

506 Section 7. Section 390.01118, Florida Statutes, as created
507 by this act, shall apply to causes of action that have accrued
508 prior to the effective date of that section; however, any such
509 cause of action that would not have been barred under prior law
510 may be brought within the time allowed by prior law or within 2
511 years after the effective date of that section, whichever is
512 earlier, and will be barred thereafter.

513 Section 8. Section 390.01119, Florida Statutes, is created
514 to read:

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515 390.01119 Medical records.--

516 (1) Any person who fraudulently alters, defaces, or
517 falsifies any medical record related to an abortion or causes or
518 procures any of these offenses to be committed, commits a
519 misdemeanor of the second degree, punishable as provided in s.
520 775.082 or s. 775.083.

521 (2) A conviction under subsection (1) is also grounds for
522 restriction, suspension, or termination of the license
523 privileges of a professional licensee.

524 Section 9. Subsection (1) of section 390.012, Florida
525 Statutes, is amended to read:

526 390.012 Powers of agency; rules; disposal of fetal
527 remains.--

528 (1) The agency shall have the authority to develop and
529 enforce rules for the health, care, and treatment of persons in
530 abortion clinics and for the safe operation of such clinics.

531 (a) The rules shall be reasonably related to the
532 preservation of maternal health of the clients.

533 (b) The rules shall be in accordance with s. 797.03 and
534 may not impose an unconstitutional burden on a woman's freedom
535 to decide whether to terminate her pregnancy.

536 (c) The rules shall prohibit the performance of abortions
537 in the third trimester other than in a hospital.

538 (d) The rules shall prohibit a clinic from requesting a
539 patient to waive her ability to either file a complaint with any
540 disciplinary body or to litigate a cause of action based on the
541 care received in the clinic or a violation of her rights.

542 (e)-(e) The rules shall provide for:

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543 1. The performance of pregnancy termination procedures
544 only by a licensed physician.

545 2. The making, protection, and preservation of patient
546 records, which shall be treated as medical records under chapter
547 458.

548 Section 10. It is the intent of this act and the
549 Legislature to accord the utmost comity and respect to the
550 constitutional prerogatives of Florida's judiciary, and nothing
551 in this act should be construed as any effort to impinge upon
552 those prerogatives. To that end, should any court of competent
553 jurisdiction enter a final judgment concluding or declaring that
554 any provision of this act improperly encroaches upon the
555 authority of the Florida Supreme Court to determine the rules of
556 practice and procedure in Florida courts, the Legislature hereby
557 declares its intent that any such provision be construed as a
558 request for rule change pursuant to s. 2, Art. V of the State
559 Constitution and not as a mandatory legislative directive.

560 Section 11. If any provision of this act or the
561 application thereof to any person or circumstance is held
562 invalid, the invalidity does not affect other provisions or
563 applications of the act which can be given effect without the
564 invalid provision or application, and to this end the provisions
565 of this act are declared severable.

566 Section 12. This act shall take effect July 1, 2007.

567
568 ===== T I T L E A M E N D M E N T =====

569 Remove the entire title and insert:

570 A bill to be entitled

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Amendment No.

571 An act relating to abortion; amending s. 390.0111, F.S.;
572 clarifying the requirement that third trimester abortions
573 be performed in a hospital; providing for disciplinary
574 action for violation of specified provisions; providing
575 ban on physicians seeking waivers of patients' rights to
576 file complaints with regulatory bodies or litigate causes
577 of action; requiring a 24-hour waiting period before a
578 physician may perform or induce an abortion on an adult or
579 on certain minor patients; providing for exception in the
580 case of a medical emergency; creating s. 390.01112, F.S.;
581 providing for a women's reproductive bill of rights;
582 requiring abortion clinics and physician abortion
583 providers to adopt a public statement of patients' rights
584 and to treat patients in accordance with that statement;
585 providing for required provisions in the statement to
586 patients; requiring clinics and physician abortion
587 providers to provide the information in their statement
588 orally and in writing to patients or their court-appointed
589 guardians; requiring that the statements be provided to
590 staff members; requiring staff training; providing for
591 disciplinary action for violation of patients' bill of
592 rights; providing for immunity to persons filing
593 complaints or testifying in proceedings unless acting in
594 bad faith; creating s. 390.01113, F.S.; creating a private
595 civil action against clinics, nurses, or physicians or
596 violation of a patients' rights; providing persons who may
597 file a cause of action; providing venue; providing for
598 actual and punitive damages; providing for recovery of

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Amendment No.

599 attorneys fees; providing criteria for recovering
600 attorney's fees; providing that a cause of action under
601 this section is not a claim for medical malpractice;
602 providing basis for punitive damages and exemptions from
603 other provisions of law governing punitive damages;
604 amending s. 390.01114, F.S.; revising provisions relating
605 to parental notice of abortion; providing exceptions;
606 providing for a cause of action under certain
607 circumstances for parents who do not receive notice;
608 providing for damages for cause of action; requiring
609 appointment of a guardian ad litem for a minor petitioning
610 for a waiver of the notice requirements; specifying
611 factors to be considered in determining whether a minor is
612 sufficiently mature to waive the notice requirements;
613 revising provisions relating to confidentiality of
614 hearings; creating s. 390.01117, F.S.; providing for a
615 cause of action in negligence for any injury or death a
616 patient suffers as a result of an abortion; providing for
617 who may bring a cause of action; providing for survival
618 and wrongful death damages if the patient dies; providing
619 for venue; providing for actual and punitive damages;
620 providing for attorney's fees to prevailing party under
621 certain circumstances; providing that remedies are in
622 addition to any other remedies provided for in law;
623 providing criteria for award of attorney's fees; providing
624 burden of proof; providing that a cause of action is not
625 strict liability; providing for legal duties and standards
626 of care for clinics, physicians, or nurses; providing that

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Amendment No.

627 cause of action under this section is not a medical
628 malpractice claim; providing for exceptions from certain
629 laws; providing standard for award of punitive damages;
630 providing for exceptions from certain laws for punitive
631 damage awards; creating s. 390.01118, F.S.; providing for
632 a statute of limitations and repose for specified causes
633 of action; providing for statute of limitations periods of
634 actions that accrue prior to the effective date of s.
635 390.01118, F.S.; creating s. 390.01119, F.S.; providing
636 for a misdemeanor of the second degree for fraudulently
637 altering, defacing, or falsifying medical records related
638 to an abortion or for causing any of these offenses;
639 providing for professional licensure actions for the same
640 violations; amending s. 390.012, F.S.; providing that
641 agency rules promulgated shall prohibit the performance of
642 abortions in the third trimester other than in a hospital;
643 requiring that the agency rules provide that a clinic or
644 abortion provider cannot request a patient to waive her
645 rights to sue or file a complaint with a disciplinary
646 body; providing that any language of the act that could be
647 construed as infringing upon a court's powers shall be
648 construed as a request for rule change; providing for
649 severability; providing an effective date.