

1 | victims under 16 years of age, and in preventing such conduct
2 | and its consequences, and

3 | WHEREAS, the Florida Supreme Court has previously noted
4 | "...that the legislature had enacted numerous statutes to
5 | protect minors from harmful sexual conduct, and that those
6 | laws clearly invoke a policy that 'any type of sexual conduct
7 | involving a child constitutes an intrusion upon the rights of
8 | that child, whether or not the child consents ... [therefore]
9 | society has a compelling interest in intervening to stop such
10 | misconduct.'" J.A.S. v. State, 705 So.2d 1381 (Fla. 1998), and

11 | WHEREAS, the Legislature agrees with the conclusion of
12 | the Florida Supreme Court in J.A.S. v. State, supra, that
13 | "whatever the extent of a minor's privacy rights, those rights
14 | 'do not vitiate the legislature's efforts and authority to
15 | protect [minors] from conduct of others.' (citation
16 | omitted).", and

17 | WHEREAS, the Legislature finds that a child who is
18 | pregnant and also under 16 years of age embodies evidence that
19 | a crime has been committed, and

20 | WHEREAS, the Legislature finds that successful criminal
21 | prosecution of sexual offenders who prey upon and impregnate
22 | children under 16 years of age is in the best interests of
23 | such children and also furthers a compelling state interest in
24 | preserving the public safety by increasing the likelihood that
25 | such sexual offenders will be imprisoned and therefore unable
26 | to continue to sexually abuse children, and

27 | WHEREAS, the Legislature finds that the successful
28 | criminal prosecution of sexual offenders who prey on children
29 | may depend heavily on the preservation of physical evidence,
30 | including DNA evidence, in order to identify or confirm the
31 |

1 identity of a person responsible for impregnating a child
2 under 16 years of age, and

3 WHEREAS, the Legislature finds that where an
4 impregnated child under 16 years of age seeks an abortion
5 without voluntarily notifying her parent or guardian of the
6 pregnancy or her intent to obtain an abortion, the state may
7 be precluded from effectively preserving physical evidence of
8 a sexual offense committed against the child by less intrusive
9 means, NOW, THEREFORE,

10

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

12

13 Section 1. Mandatory reporting of child sexual abuse;
14 collection of evidence.--

15 (1) As used in this section, the term:

16 (a) "Abortion clinic" has the same meaning as in s.
17 390.011, Florida Statutes.

18 (b) "Abortion referral or counseling agency" has the
19 same meaning as in s. 390.025, Florida Statutes.

20 (c) "Health care practitioner" has the same meaning as
21 in s. 456.001, Florida Statutes.

22 (2) Any health care practitioner, or any person acting
23 under the supervision or direction of a health care
24 practitioner, who knows or reasonably should know that a child
25 under 16 years of age is pregnant shall report the pregnancy
26 of the child to the appropriate sheriff or municipal law
27 enforcement agency within 24 hours after the time the person
28 ascertained or reasonably should have ascertained such
29 knowledge.

30 (3) Any employee, volunteer, or other person acting on
31 behalf of an abortion clinic or an abortion referral or

1 counseling agency who knows or reasonably should know that a
2 child under 16 years of age is pregnant shall report the
3 pregnancy of such child to the appropriate sheriff or
4 municipal law enforcement agency within 24 hours after the
5 time the person ascertained or reasonably should have
6 ascertained such knowledge.

7 (4) Any health care practitioner who performs an
8 abortion on a child under 16 years of age shall collect, in
9 accordance with rules of the Department of Law Enforcement, a
10 sample of DNA suitable for testing from the child and the
11 fetus. In the case of the child, a sample is suitable for
12 testing if it consists of properly preserved blood or oral
13 swabbings containing DNA. In the case of the fetus, a sample
14 is suitable for testing if it consists of properly preserved
15 blood or fetal tissue containing DNA. Samples collected
16 pursuant to this section shall be immediately forwarded to the
17 Department of Law Enforcement for testing in an effort to
18 identify or confirm the identity of the person responsible for
19 impregnating the child.

20 (5) All evidence derived pursuant to the provisions of
21 this section may be used in any prosecution under ss. 794.011,
22 800.04, and 827.04, Florida Statutes, or in any other criminal
23 or civil proceeding arising in connection with the pregnancy,
24 including any action arising out of any failure to make a
25 report or collect evidence as required by this section.

26 (6) The Department of Health may revoke or suspend the
27 license of any person or entity subject to the provisions of
28 this section for a period not to exceed 2 years, or the
29 department may refuse to renew such license, if it is
30 determined in accordance with the provisions of chapter 120,
31

1 Florida Statutes, that any provision of this section has been
2 violated by that person or entity.

3 (7) This section does not apply when the child
4 provides to the health care practitioner or abortion clinic
5 personnel a certified copy of a marriage license that is
6 recognizable under the laws of Florida or a certified copy of
7 a court order indicating that the child has had the disability
8 of nonage removed under s. 743.015, Florida Statutes, or a
9 substantially similar statute of another jurisdiction.

10 (8) The Department of Law Enforcement is authorized to
11 adopt rules for the administration and implementation of this
12 section pursuant to ss. 120.536(1) and 120.54, Florida
13 Statutes.

14 Section 2. Abrogation of privilege.--The privileged
15 quality of communication between any professional person and
16 his or her child patient or client under 16 years of age is
17 abrogated to facilitate compliance with the requirements of
18 section 1 of this act.

19 Section 3. This act shall take effect July 1, 2007.
20
21
22
23
24
25
26
27
28
29
30
31