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1 A bill to be entitled  
2 An act relating to abortion; creating the "Florida for  
3 Life Act"; creating s. 390.0001, F.S.; providing  
4 legislative findings regarding abortion; creating s.  
5 390.01113, F.S.; providing definitions; prohibiting  
6 inducing, performing, attempting to perform, or  
7 assisting in induced abortions; providing criminal  
8 penalties; prohibiting inflicting serious bodily  
9 injury on a person in the course of performing an  
10 abortion; providing criminal penalties; providing  
11 enhanced criminal penalties if the serious bodily  
12 injury results in death; prohibiting operation of any  
13 facility, business, or service within this state for  
14 the purpose of providing induced abortion services;  
15 providing criminal penalties; prohibiting termination  
16 of a pregnancy unless specified conditions are met;  
17 requiring that a termination of pregnancy be performed  
18 only by a physician; requiring voluntary, informed  
19 consent for a termination of pregnancy; providing an  
20 exception for medical emergencies; providing for  
21 documentation of a medical emergency; providing that  
22 violations may subject physicians to discipline under  
23 specified provisions; providing a standard of medical  
24 care to be used during a termination of pregnancy  
25 performed while the patient's fetus is viable;  
26 providing that the woman's life is a superior  
27 consideration to the concern for the life of the fetus  
28 and the woman's health is a superior consideration to

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | the concern for the health of the fetus when such life  
30 | or health concerns are in conflict; prohibiting a  
31 | physician's misrepresentation of the gestational age  
32 | or developmental stage of a viable fetus in any  
33 | medical record and failing to use the prescribed  
34 | standard of care on a viable fetus; providing criminal  
35 | penalties; prohibiting fetal experimentation;  
36 | providing an exception; requiring that fetal remains  
37 | be disposed of according to specified standards;  
38 | providing criminal penalties; excluding specified  
39 | procedures from application of the section; requiring  
40 | physicians and personnel at a medical facility to  
41 | provide certain women and minors who have been treated  
42 | by the facility with information regarding adoption  
43 | and a statewide list of attorneys available to provide  
44 | volunteer legal services for adoption; providing that  
45 | violation of certain provisions by a physician may be  
46 | grounds for discipline; providing rulemaking authority  
47 | to the Agency for Health Care Administration and the  
48 | Department of Health; creating s. 390.01117, F.S.;  
49 | providing that the section takes effect only if s.  
50 | 390.01113, F.S., is declared unconstitutional or has  
51 | its enforcement enjoined; providing definitions;  
52 | prohibiting termination of a pregnancy after a fetus  
53 | has been determined to be viable; providing  
54 | exceptions; requiring a determination of viability for  
55 | women in a certain week of pregnancy or later before  
56 | termination may be performed; requiring an ultrasound

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57 | and recordkeeping; providing that determination of  
58 | viability and a required ultrasound may not be  
59 | performed by a physician providing reproductive health  
60 | services at an abortion clinic; requiring that a  
61 | termination of pregnancy involving a viable fetus,  
62 | when not prohibited, be performed in a hospital or  
63 | other medical facility; providing a standard of care  
64 | for a termination of pregnancy performed while a fetus  
65 | is viable; providing that the woman's life is a  
66 | superior consideration to the concern for the life of  
67 | the fetus and the woman's health is a superior  
68 | consideration to the concern for the health of the  
69 | fetus when such life or health concerns are in  
70 | conflict; prohibiting a physician' misrepresentation  
71 | of the gestational age or developmental stage of a  
72 | viable fetus in any medical record and failing to use  
73 | the prescribed standard of care on a viable fetus;  
74 | providing criminal penalties; providing that only a  
75 | physician may perform a termination of pregnancy;  
76 | requiring voluntary and informed consent for a  
77 | termination of pregnancy; providing an exception for  
78 | medical emergencies; providing for documentation of a  
79 | medical emergency; providing that violations may  
80 | subject physicians to discipline; prohibiting  
81 | experimentation on a fetus; providing an exception;  
82 | requiring that fetal remains be disposed of according  
83 | to specified standards; providing criminal penalties;  
84 | providing that no person or facility is required to

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85 | participate in the termination of a pregnancy or be  
86 | liable for such refusal; excluding specified  
87 | procedures from application of the section;  
88 | prohibiting a termination of pregnancy procedure in  
89 | violation of specified requirements; providing  
90 | criminal penalties; prohibiting inflicting serious  
91 | bodily injury on a person in the course of performing  
92 | a termination of pregnancy; providing criminal  
93 | penalties; providing enhanced criminal penalties if  
94 | the serious bodily injury results in death; requiring  
95 | physicians and personnel at a medical facility to  
96 | provide certain women and minors who have been treated  
97 | by the facility with information regarding adoption  
98 | and a statewide list of attorneys available to provide  
99 | volunteer legal services for adoption; providing  
100 | rulemaking authority to the Agency for Health Care  
101 | Administration and the Department of Health; providing  
102 | that rulemaking authority is supplemental to s.  
103 | 390.012, F.S.; amending s. 39.001, F.S.; providing  
104 | legislative intent concerning adoption services for  
105 | women with unwanted pregnancies; requiring the Office  
106 | of Adoption and Child Protection to create and manage  
107 | a statewide list of attorneys providing volunteer  
108 | adoption services for women with unwanted pregnancies  
109 | who would have selected abortion, if lawful, rather  
110 | than adoption; providing that all federal moneys  
111 | received by the state as a result of efforts made by  
112 | the office to provide legal services have deposited,

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113 directed and budgeted the full amount for its use;  
114 repealing s. 390.011, F.S., relating to definitions;  
115 repealing s. 390.0111, F.S., relating to termination  
116 of pregnancies; repealing s. 390.01114, F.S., which  
117 creates the Parental Notice of Abortion Act; repealing  
118 s. 390.01116, F.S., relating to public records  
119 exemptions for identifying information regarding  
120 minors seeking a waiver of notice requirements under  
121 the Parental Notice of Abortion Act; repealing s.  
122 390.0112, F.S., relating to termination of pregnancy  
123 reporting; repealing s. 390.012, F.S., relating to  
124 powers of the Agency for Health Care Administration,  
125 rulemaking, and the disposal of fetal remains;  
126 repealing s. 390.014, F.S., relating to licenses and  
127 fees; repealing s. 390.015, F.S., relating to  
128 application for license; repealing s. 390.018, F.S.,  
129 relating to administrative fines; repealing s.  
130 390.025, F.S., relating to abortion referral or  
131 counseling agencies and penalties; repealing s.  
132 782.30, F.S., relating to the short title for the  
133 Partial-Birth Abortion Act; repealing s. 782.32, F.S.,  
134 relating to definitions for the Partial-Birth Abortion  
135 Act; repealing s. 782.34, F.S., relating to partial-  
136 birth abortion; repealing s. 782.36, F.S., relating to  
137 exceptions to the Partial-Birth Abortion Act; amending  
138 s. 27.511, F.S.; conforming language relating to  
139 court-appointed counsel for minors under the Parental  
140 Notice of Abortion Act to the repeal of s. 390.01114,

141 F.S.; amending ss. 627.64995, 627.6699, 627.66996, and  
 142 641.31099, F.S.; providing restrictions on use of  
 143 state and federal funds for state exchanges that  
 144 provide coverage for induced abortions and  
 145 terminations of pregnancies under certain conditions;  
 146 amending ss. 743.065 and 765.113, F.S.; conforming  
 147 cross-references; providing that if s. 390.01117,  
 148 F.S., is declared unconstitutional or has its  
 149 enforcement enjoined, the repeal of s. 390.011, F.S.,  
 150 and the amendment of s. 39.001, F.S., are void and of  
 151 no effect; providing legislative intent; providing  
 152 that if s. 390.01113, F.S., is declared  
 153 unconstitutional or has its enforcement enjoined,  
 154 specified statutory repeals and amendments contained  
 155 in this act are void and of no effect; providing  
 156 legislative intent; providing an effective date.

157

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

159

160 Section 1. This act may be cited as the "Florida for Life  
 161 Act."

162 Section 2. Section 390.0001, Florida Statutes, is created  
 163 to read:

164 390.0001 Legislative findings regarding abortion.—

165 (1) The Legislature acknowledges that all persons are  
 166 endowed by their Creator with certain unalienable rights, and  
 167 that first among these is their right to life.

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168       (2) The Legislature finds that all human life comes from  
169 the Creator, has an inherent value that cannot be quantified by  
170 man, and begins at conception.

171       (3) The Legislature finds that the United States  
172 Constitution expresses no qualification for, or limitation on,  
173 the protection of human life by laws passed by state  
174 legislatures which regard human life as the most fundamental  
175 gift from God and deserving of paramount importance among all  
176 other unalienable rights expressed or implied in the United  
177 States Constitution.

178       (4) The Legislature finds that personal liberty is not a  
179 license to kill an innocent human life under any provision of  
180 the United States Constitution.

181       (5) The Legislature finds that once human life begins  
182 there is a compelling state interest in protecting the natural  
183 course of its development from that moment through birth. Any  
184 act of a person detrimental to an unborn human life, when not  
185 necessary in defense of the life of the mother bearing such  
186 unborn life, which unnaturally terminates that unborn life, is a  
187 deprivation of that unborn child's unalienable right to life.

188       (6) The Legislature finds that the establishment of  
189 viability as the point at which the state may restrict  
190 abortions, as well as the "undue burden" standard of *Planned*  
191 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833  
192 (1992) is arbitrary and provides inadequate guidance for this  
193 state to enact meaningful protections for fetal life.

194       (7) The Legislature finds that the health exception  
195 required of post-viability abortion regulations inadequately

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196 protects the health of women seeking post-viability abortions  
 197 and impedes the state's protection of viable fetal life.

198 (8) The Legislature finds that the people of Florida seek  
 199 to protect unborn human life and prohibit unnecessary abortion  
 200 through the exercise of their right to self-government.

201 (9) The Legislature urges the United States Supreme Court  
 202 to overturn *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned*  
 203 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833  
 204 (1992).

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

207 390.01113 Abortion unlawful; termination of pregnancies  
 208 circumstances authorized.—

209 (1) DEFINITIONS.—As used in this section, the term:

210 (a) "Induced abortion" means a medically initiated  
 211 termination of a human pregnancy with the intent to kill a human  
 212 embryo or fetus that is not dying of natural causes. For  
 213 purposes of this paragraph, the term "medically initiated"  
 214 refers to the ingestion or administration of pharmaceutical  
 215 abortifacients by any means, surgical procedures, or use of any  
 216 device or instrument, as well as any combination thereof.

217 (b) "Medical emergency" means a condition that, on the  
 218 basis of a physician's good faith clinical judgment, so  
 219 complicates the medical condition of a patient as to necessitate  
 220 the immediate termination of her pregnancy to avert her death,  
 221 or for which a delay in the termination of her pregnancy will  
 222 create serious risk of substantial and irreversible impairment



223 of a major bodily function or unreasonably reduce the likelihood  
 224 of successful treatment of a life-threatening disease.

225 (c) "Patient" means the woman or minor upon whom an  
 226 abortion or termination of pregnancy is performed or induced.

227 (d) "Physician" means a physician licensed under chapter  
 228 458 or chapter 459 or a physician practicing medicine or  
 229 osteopathic medicine in the employment of the United States.

230 (e) "Termination of pregnancy" means the termination of a  
 231 human pregnancy under circumstances not prohibited by this  
 232 section.

233 (f) "Viability" means that stage of fetal development  
 234 when, in the judgment of a physician based on the particular  
 235 facts of the case before him or her and in light of the most  
 236 advanced medical technology and information available, there is  
 237 a reasonable probability of sustained survival of the unborn  
 238 child outside his or her mother's womb with or without  
 239 artificial support.

240 (2) INDUCED ABORTION PROHIBITED.—

241 (a) Induced abortion for any purpose is unlawful. Any  
 242 person who induces, performs, attempts to perform, or assists  
 243 another in the performance of an induced abortion on another  
 244 person commits a felony of the first degree, punishable as  
 245 provided in s. 775.082, s. 775.083, or s. 775.084.

246 (b) Any person who during the course of performing an  
 247 induced abortion on another person inflicts serious bodily  
 248 injury on the person commits a felony of the first degree,  
 249 punishable by imprisonment for a term of years not exceeding  
 250 life as provided in s. 775.082, s. 775.083, or s. 775.084.

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251 (c) Any person who during the course of performing an  
252 induced abortion on another person inflicts serious bodily  
253 injury on the person which results in the death of the person  
254 commits a life felony, punishable as provided in s. 775.082, s.  
255 775.083, or s. 775.084.

256 (3) OPERATING ABORTION SERVICES PROHIBITED.—A person who  
257 operates any facility, business, or service from any location  
258 within this state for the purpose of providing induced abortion  
259 services commits a felony of the first degree, punishable by  
260 imprisonment for a term of years not exceeding life as provided  
261 in s. 775.082, s. 775.083, or s. 775.084.

262 (4) TERMINATION OF PREGNANCY.—A termination of pregnancy  
263 may not be performed unless:

264 (a) Two physicians certify in writing to the fact that, to  
265 a reasonable degree of medical certainty, the termination of  
266 pregnancy is necessary to prevent the death of the patient;

267 (b) Two physicians certify in writing to the fact that, to  
268 a reasonable degree of medical certainty, the termination of  
269 pregnancy is necessary because to continue the pregnancy would  
270 unreasonably reduce the likelihood of successful treatment of a  
271 life-threatening disease of the patient; or

272 (c) A physician certifies in writing that a medical  
273 emergency existed and another physician was not available for  
274 consultation prior to the time necessary to perform the  
275 termination of pregnancy. The physician's written certification  
276 must clearly describe the medical emergency.

277 (5) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of  
278 pregnancy may be performed at any time except by a physician.

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279       (6) CONSENTS REQUIRED.—A termination of pregnancy may not  
280 be performed or induced except with the voluntary and informed  
281 written consent of the patient or, in the case of a mentally  
282 incompetent patient, the voluntary and informed written consent  
283 of her court-appointed guardian or, in the case of a minor  
284 patient, notwithstanding s. 743.065, the voluntary informed  
285 consent of the minor's parent or legal guardian.

286       (a) Except in the case of a medical emergency, consent to  
287 a termination of pregnancy is voluntary and informed only if the  
288 physician who is to perform the procedure or the referring  
289 physician has personally informed the patient, or the court-  
290 appointed guardian if the patient is mentally incompetent or a  
291 parent or guardian if the patient is a minor, of:

292       1. The nature and risks of undergoing or not undergoing  
293 the proposed procedure that a reasonable patient similarly  
294 situated may consider relevant to making an informed decision of  
295 whether to terminate a pregnancy.

296       2. The medical risks to the patient and fetus of carrying  
297 the pregnancy to term.

298       (b) In the event a medical emergency exists and a  
299 physician cannot comply with the requirements for informed  
300 consent, a physician may terminate a pregnancy if he or she has  
301 obtained at least one corroborative medical opinion attesting to  
302 the medical necessity for emergency medical procedures and to  
303 the fact that, to a reasonable degree of medical certainty, the  
304 continuation of the pregnancy would threaten the life of the  
305 patient. In the event no second physician is available for a  
306 corroborating opinion, the physician may proceed but shall

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307 document reasons for the medical necessity in the patient's  
308 medical records.

309 (c) Violation of this subsection by a physician  
310 constitutes grounds for disciplinary action under s. 458.331 or  
311 s. 459.015. Substantial compliance or reasonable belief that  
312 complying with the requirements of informed consent would  
313 threaten the life of the patient may be raised as a defense to  
314 any action brought for a violation of this subsection.

315 (7) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—

316 (a) If a termination of pregnancy is performed while the  
317 patient's fetus is viable, no person who performs or induces the  
318 termination of pregnancy shall fail to use that degree of  
319 professional skill, care, and diligence to preserve the life and  
320 health of the fetus that such person would be required to  
321 exercise in order to preserve the life and health of a fetus  
322 intended to be born and not aborted. Notwithstanding the  
323 provisions of this subsection, the patient's life shall  
324 constitute an overriding and superior consideration to the  
325 concern for the life of the fetus, and the patient's health  
326 shall constitute an overriding and superior consideration to the  
327 concern for the health of the fetus when such life or health  
328 concerns are in conflict. For purposes of this subsection,  
329 health considerations refer to medical judgment exercised in  
330 light of factors exclusively regarding the physical well-being  
331 of the patient.

332 (b) Any physician who, once the matter of the viability or  
333 nonviability of the fetus has been determined within a  
334 reasonable degree of medical probability, knowingly and

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335 willfully misrepresents the gestational age or stage of fetal  
336 development of a viable fetus in an entry into any medical  
337 record and who fails to use the standard of care required under  
338 paragraph (a) on any fetus determined to be viable commits a  
339 felony of the first degree, punishable as provided in s.  
340 775.082, s. 775.083, or s. 775.084.

341 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No  
342 person shall use any live fetus or live, premature infant for  
343 any type of scientific, research, laboratory, or other kind of  
344 experimentation prior to or subsequent to any termination of  
345 pregnancy procedure except as necessary to protect or preserve  
346 the life and health of such fetus or premature infant.

347 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a  
348 sanitary and appropriate manner and in accordance with standard  
349 health practices, as provided by rule of the Department of  
350 Health. A person who fails to dispose of fetal remains in  
351 accordance with department rules commits a misdemeanor of the  
352 first degree, punishable as provided in s. 775.082 or s.  
353 775.083.

354 (10) EXCLUSION FROM APPLICATION.— The provisions of this  
355 section do not apply to the performance of a procedure that  
356 terminates a pregnancy in order to deliver a live child or to  
357 remove a dead or dying fetus whose demise was not the product of  
358 a termination of pregnancy or an induced abortion from the  
359 patient's body.

360 (11) ADOPTION ALTERNATIVE INFORMATION.—Any physician or  
361 authorized personnel of a medical facility who learns that a  
362 pregnant woman or minor treated at the facility wishes to obtain

363 an induced abortion, or that a patient has had a termination of  
 364 pregnancy where the fetus survived, shall provide the woman or  
 365 minor with information concerning the availability of adoption  
 366 for her unwanted child. Compliance with this subsection may be  
 367 accomplished by providing the woman with the address and  
 368 telephone number of the Office of Adoption and Child Protection  
 369 within the Executive Office of the Governor and inform her of  
 370 the existence of the statewide list of attorneys available to  
 371 provide volunteer legal services for adoption maintained by that  
 372 office.

373 (12) PENALTIES FOR CERTAIN VIOLATIONS.—Violation of  
 374 subsection (4), subsection (7), or subsection (8) by a physician  
 375 constitutes grounds for disciplinary action under s. 458.331 or  
 376 s. 459.015.

377 (13) RULEMAKING AUTHORITY.—

378 (a) Except for subsection (9), the Agency for Health Care  
 379 Administration may adopt rules pursuant to ss. 120.536(1) and  
 380 120.54 to implement the provisions of this section. These rules  
 381 shall be for the purpose of protecting the health and safety of  
 382 women and unborn human life and for the purpose of securing  
 383 compliance with the requirements of this section and to  
 384 facilitate the enforcement of sanctions for those violations to  
 385 which administrative penalties apply.

386 (b) The Department of Health may adopt rules pursuant to  
 387 ss. 120.536(1) and 120.54 to implement the provisions of  
 388 subsection (9).

389 Section 4. Section 390.01117, Florida Statutes, is created  
 390 to read:

391           390.01117 Termination of pregnancies.—  
 392           (1) APPLICATION.—This section is superseded by s.  
 393 390.01113 and shall become effective only in the event that s.  
 394 390.01113 is declared unconstitutional or has its enforcement  
 395 enjoined. In the event this section becomes effective, it shall  
 396 supersede s. 390.0111.  
 397           (2) DEFINITIONS.—As used in this section and elsewhere in  
 398 this chapter, the term:  
 399           (a) "Abortion" means the termination of human pregnancy  
 400 with an intention other than to produce a live birth or to  
 401 remove a fetus that died of natural causes.  
 402           (b) "Abortion clinic" or "clinic" means any facility or  
 403 structure in which abortions are performed. The term does not  
 404 include:  
 405           1. A hospital; or  
 406           2. A physician's office, provided that the office is not  
 407 used primarily for the performance of abortions.  
 408           (c) "Agency" means the Agency for Health Care  
 409 Administration.  
 410           (d) "Department" means the Department of Health.  
 411           (e) "Hospital" means a facility as defined in s.  
 412 395.002(12) and licensed under chapter 395 and part II of  
 413 chapter 408.  
 414           (f) "Patient" means the woman or minor upon whom an  
 415 abortion or termination of pregnancy is performed or induced.  
 416           (g) "Physician" means a physician licensed under chapter  
 417 458 or chapter 459 or a physician practicing medicine or  
 418 osteopathic medicine in the employment of the United States.

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419 (h) "Viability" means that stage of fetal development  
420 when, in the judgment of the physician based on the particular  
421 facts of the case before him or her and in light of the most  
422 advanced medical technology and information available, there is  
423 a reasonable probability of sustained survival of the unborn  
424 child outside his or her mother's womb with or without  
425 artificial support.

426 (3) TERMINATION AFTER VIABILITY PROHIBITED; EXCEPTION.—No  
427 termination of pregnancy shall be performed on any human being  
428 when it has been determined, in accordance with subsection (4),  
429 that the fetus is viable unless:

430 (a) Two physicians certify in writing to the fact that, to  
431 a reasonable degree of medical certainty, the termination of  
432 pregnancy is necessary to prevent the death of the patient or  
433 avert a significant risk to her physical health;

434 (b) Two physicians certify in writing to the fact that, to  
435 a reasonable degree of medical certainty, the termination of  
436 pregnancy is necessary because to continue the pregnancy would  
437 unreasonably reduce the likelihood of successful treatment of a  
438 life-threatening disease of the patient; or

439 (c) The physician certifies in writing to the medical  
440 necessity for legitimate emergency medical procedures for the  
441 termination of pregnancy and another physician is not available  
442 for consultation. The physician's written certification must  
443 clearly describe the medical emergency.

444 (4) DETERMINATION OF VIABILITY.—No termination of  
445 pregnancy may be induced or performed on any patient who is in  
446 the 22nd week of pregnancy or later without first obtaining an



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447 ultrasound from a physician to determine the stage of fetal  
448 development. The physician shall estimate as accurately as  
449 possible the stage of fetal development and shall indicate on  
450 the patient's medical records the gestational age, length and  
451 weight, and lung maturity of the fetus. The physician shall also  
452 indicate on the patient's medical records whether, within a  
453 reasonable degree of medical probability, the fetus is viable.  
454 Due to the potential of an inherent conflict of interest, the  
455 determination of viability and the performance of the ultrasound  
456 required under this subsection may not be performed by a  
457 physician who provides reproductive health services at an  
458 abortion clinic.

459 (5) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—

460 (a) A termination of pregnancy involving a viable fetus,  
461 when not prohibited in accordance with subsection (3), must be  
462 performed in a hospital or other medical facility capable of  
463 providing all necessary lifesaving or life-sustaining medical  
464 services to the viable fetus.

465 (b) If a termination of pregnancy is performed while the  
466 patient's fetus is viable, no person who performs or induces the  
467 termination of pregnancy shall fail to use that degree of  
468 professional skill, care, and diligence to preserve the life and  
469 health of the fetus which such person would be required to  
470 exercise in order to preserve the life and health of any fetus  
471 intended to be born and not aborted. Notwithstanding the  
472 provisions of this subsection, the patient's life shall  
473 constitute an overriding and superior consideration to the  
474 concern for the life of the fetus, and the patient's health

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475 shall constitute an overriding and superior consideration to the  
476 concern for the health of the fetus when such life or health  
477 concerns are in conflict. For purposes of this subsection,  
478 health considerations refer to medical judgment exercised in  
479 light of factors exclusively regarding the physical well-being  
480 of the patient. Violation of this subsection by a physician  
481 constitutes grounds for disciplinary action under s. 458.331 or  
482 s. 459.015.

483 (c) Any physician who, once the matter of the viability or  
484 nonviability of the fetus has been determined within a  
485 reasonable degree of medical probability, knowingly and  
486 willfully misrepresents the gestational age or stage of fetal  
487 development of a viable fetus in an entry into any medical  
488 record and who fails to use the standard of care required under  
489 paragraph (b) on any fetus determined to be viable commits a  
490 felony of the first degree, punishable as provided in s.  
491 775.082, s. 775.083, or s. 775.084.

492 (6) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of  
493 pregnancy may be performed at any time except by a physician.

494 (7) CONSENTS REQUIRED.—A termination of pregnancy may not  
495 be performed or induced except with the voluntary and informed  
496 written consent of the patient or, in the case of a mentally  
497 incompetent patient, the voluntary and informed written consent  
498 of her court-appointed guardian or, in the case of a pregnant  
499 minor, notwithstanding s. 743.065, the voluntary informed  
500 consent of the minor's parent or guardian.

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

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- 503        1. The physician who is to perform the procedure or the  
504 referring physician has personally informed the patient, or the  
505 court-appointed guardian if the patient is mentally incompetent  
506 or a parent or guardian in the case of a minor patient, of:
- 507            a. The nature and risks of undergoing or not undergoing  
508 the proposed procedure that a reasonable patient similarly  
509 situated may consider relevant to making an informed decision of  
510 whether to terminate a pregnancy.
- 511            b. The probable gestational age of the fetus at the time  
512 the termination of pregnancy is to be performed.
- 513            c. The medical risks to the patient and fetus of carrying  
514 the pregnancy to term.
- 515            d. All other factors, physical, emotional, psychological,  
516 and familial, relevant to the short-term and long-term well-  
517 being of the patient, including emotional and psychological  
518 impact relating to the loss of the life of a child.
- 519        2. Printed materials prepared and provided by the  
520 department have been provided to the patient, if she chooses to  
521 view these materials, including:
- 522            a. A description of the fetus.
- 523            b. A list of agencies that offer alternatives to  
524 terminating the pregnancy.
- 525            c. Detailed information on the availability of medical  
526 assistance benefits for prenatal care, childbirth, and neonatal  
527 care.
- 528        3. The person required to give consent under this  
529 subsection acknowledges in writing, before the termination of  
530 pregnancy, that the information required to be provided under

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531 this subsection has been provided.

532 (b) In the event a medical emergency exists and a  
533 physician cannot comply with the requirements for informed  
534 consent, a physician may terminate a pregnancy if he or she has  
535 obtained at least one corroborative medical opinion attesting to  
536 the medical necessity for emergency medical procedures and to  
537 the fact that, to a reasonable degree of medical certainty, the  
538 continuation of the pregnancy would threaten the life of the  
539 patient. In the event no second physician is available for a  
540 corroborating opinion, the physician may proceed but shall  
541 document reasons for the medical necessity in the patient's  
542 medical records.

543 (c) Violation of this subsection by a physician  
544 constitutes grounds for disciplinary action under s. 458.331 or  
545 s. 459.015. Substantial compliance or reasonable belief that  
546 complying with the requirements of informed consent would  
547 threaten the life or health of the patient may be raised as a  
548 defense to any action brought under this subsection.

549 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No  
550 person shall use any live fetus or live, premature infant for  
551 any type of scientific, research, laboratory, or other kind of  
552 experimentation prior to or subsequent to any termination of  
553 pregnancy procedure except as necessary to protect or preserve  
554 the life and health of such fetus or premature infant. Violation  
555 of this subsection by a physician constitutes grounds for  
556 disciplinary action under s. 458.331 or s. 459.015.

557 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a  
558 sanitary and appropriate manner and in accordance with standard

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559 health practices, as provided by rule of the Department of  
560 Health. A person who fails to dispose of fetal remains in  
561 accordance with department rules commits a misdemeanor of the  
562 first degree, punishable as provided in s. 775.082 or s.  
563 775.083.

564 (10) REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—  
565 Nothing in this section shall require any hospital or any person  
566 to participate in the termination of a pregnancy, nor shall any  
567 hospital or any person be liable for such refusal. No person who  
568 is a member of, or associated with, the staff of a hospital, nor  
569 any employee of a hospital or physician in which or by whom the  
570 termination of a pregnancy has been authorized or performed, who  
571 states an objection to such procedure shall be required to  
572 participate in the procedure which will result in the  
573 termination of pregnancy. The refusal of any such person or  
574 employee to participate shall not form the basis for any  
575 disciplinary or other recriminatory action against such person.

576 (11) EXCLUSION FROM APPLICATION.—The provisions of this  
577 section do not apply to the performance of a procedure that  
578 terminates a pregnancy in order to deliver a live child or to  
579 remove a dead or dying fetus whose demise was not the product of  
580 a termination of pregnancy or an abortion, from the patient's  
581 body.

582 (12) PENALTIES FOR VIOLATION.—

583 (a) Any person who willfully induces, performs, or assists  
584 in a termination of pregnancy procedure on another person in  
585 violation of the requirements of subsection (4), paragraph  
586 (5) (a), or subsection (6) commits a felony of the second degree,

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587 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

588 (b) Any person who willfully induces, performs, or assists  
589 in a termination of pregnancy procedure on another person in  
590 violation of subsection (3) commits a felony of the first  
591 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
592 775.084.

593 (c) Any person who willfully induces, performs, or assists  
594 in a termination of pregnancy procedure on another person in  
595 violation of subsection (3) which results in serious bodily  
596 injury to the person commits a felony of the first degree,  
597 punishable by imprisonment for a term of years not exceeding  
598 life as provided in s. 775.082, s. 775.083, or s. 775.084.

599 (d) Any person who induces, performs, or assists in a  
600 termination of pregnancy procedure on another person in  
601 violation of the provisions of this section which results in the  
602 death of the person commits a life felony, punishable as  
603 provided in s. 775.082, s. 775.083, or s. 775.084.

604 (13) ADOPTION ALTERNATIVE INFORMATION.—Any physician or  
605 authorized personnel of a medical facility who learns that a  
606 pregnant woman or minor treated at the facility wishes to obtain  
607 an abortion, or that a patient has had a termination of  
608 pregnancy at the facility under circumstances where the fetus  
609 survived, shall provide the woman or minor with the address and  
610 telephone number of the Office of Adoption and Child Protection  
611 within the Executive Office of the Governor and inform her of  
612 the existence of the statewide list of attorneys available to  
613 provide volunteer legal services for adoption maintained by that  
614 office.

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615 (14) RULEMAKING AUTHORITY.—

616 (a) Except for subsection (9), the Agency for Health Care  
 617 Administration may adopt rules pursuant to ss. 120.536(1) and  
 618 120.54 to implement the provisions of this section. These rules  
 619 shall be for the purpose of protecting the health and safety of  
 620 women and unborn human life. These rules are also for the  
 621 purpose of securing compliance with the requirements of this  
 622 section and to facilitate the enforcement of sanctions for those  
 623 violations to which administrative penalties apply.

624 (b) The Department of Health may adopt rules pursuant to  
 625 ss. 120.536(1) and 120.54 to implement the provisions of  
 626 subsection (9).

627 (c) The rulemaking authority granted in this subsection is  
 628 supplemental to the rulemaking authority provided in s. 390.012.

629 Section 5. Subsection (6) of section 39.001, Florida  
 630 Statutes, is amended, and paragraph (d) is added to subsection  
 631 (7) of that section, to read:

632 39.001 Purposes and intent; personnel standards and  
 633 screening.—

634 (6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,  
 635 ABANDONMENT, AND NEGLECT OF CHILDREN; ADOPTION SERVICES FOR  
 636 WOMEN WITH UNWANTED PREGNANCIES.—The incidence of known child  
 637 abuse, abandonment, and neglect has increased rapidly in recent  
 638 ~~ever the past 5~~ years. The impact that abuse, abandonment, or  
 639 neglect has on the victimized child, siblings, family structure,  
 640 and inevitably on all citizens of the state has caused the  
 641 Legislature to determine that the prevention of child abuse,  
 642 abandonment, and neglect shall be a priority of this state. In

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643 addition, to provide assistance for women or minors with  
644 unwanted pregnancies who would have selected abortion, if lawful  
645 in this state, rather than adoption as an alternative for their  
646 unborn child, the Legislature has determined to offer such women  
647 or minors volunteer legal services to accomplish an appropriate  
648 adoptive placement for such newborn children. To further these  
649 ends ~~this end~~, it is the intent of the Legislature that an  
650 Office of Adoption and Child Protection be established.

651 (7) OFFICE OF ADOPTION AND CHILD PROTECTION.—

652 (d) In connection with the provision of volunteer legal  
653 services for women or minors with unwanted pregnancies who would  
654 have selected abortion, if lawful in this state, rather than  
655 adoption, the office shall:

656 1. Create and manage a statewide list of attorneys  
657 providing volunteer adoption services for such women and minors.

658 2. Have deposited, directed, and budgeted in the full  
659 amount for its use, in addition to funds that would have or are  
660 otherwise budgeted for it, all moneys received by or otherwise  
661 awarded to the state from the Federal Government, the United  
662 States Treasury, or any other federal agency as a result of  
663 efforts made by the office to provide legal services.

664 Section 6. Section 390.011, Florida Statutes, is repealed.

665 Section 7. Section 390.0111, Florida Statutes, is  
666 repealed.

667 Section 8. Section 390.01114, Florida Statutes, is  
668 repealed.

669 Section 9. Section 390.01116, Florida Statutes, is  
670 repealed.



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671           Section 10. Section 390.0112, Florida Statutes, is  
 672 repealed.

673           Section 11. Section 390.012, Florida Statutes, is  
 674 repealed.

675           Section 12. Section 390.014, Florida Statutes, is  
 676 repealed.

677           Section 13. Section 390.015, Florida Statutes, is  
 678 repealed.

679           Section 14. Section 390.018, Florida Statutes, is  
 680 repealed.

681           Section 15. Section 390.025, Florida Statutes, is  
 682 repealed.

683           Section 16. Section 782.30, Florida Statutes, is repealed.

684           Section 17. Section 782.32, Florida Statutes, is repealed.

685           Section 18. Section 782.34, Florida Statutes, is repealed.

686           Section 19. Section 782.36, Florida Statutes, is repealed.

687           Section 20. Paragraph (a) of subsection (6) of section  
 688 27.511, Florida Statutes, is amended to read:

689           27.511 Offices of criminal conflict and civil regional  
 690 counsel; legislative intent; qualifications; appointment;  
 691 duties.—

692           (6) (a) The office of criminal conflict and civil regional  
 693 counsel has primary responsibility for representing persons  
 694 entitled to court-appointed counsel under the Federal or State  
 695 Constitution or as authorized by general law in civil  
 696 proceedings, including, but not limited to, proceedings under s.  
 697 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and  
 698 proceedings to terminate parental rights under chapter 63.

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699 ~~Private court appointed counsel eligible under s. 27.40 have~~  
 700 ~~primary responsibility for representing minors who request~~  
 701 ~~counsel under s. 390.01114, the Parental Notice of Abortion Act;~~  
 702 ~~however, the office of criminal conflict and civil regional~~  
 703 ~~counsel may represent a minor under that section if the court~~  
 704 ~~finds that no private court appointed attorney is available.~~

705 Section 21. Subsection (1) of section 627.64995, Florida  
 706 Statutes, is amended to read:

707 627.64995 Restrictions on use of state and federal funds  
 708 for state exchanges.—

709 (1) A health insurance policy under which coverage is  
 710 purchased in whole or in part with any state or federal funds  
 711 through an exchange created pursuant to the federal Patient  
 712 Protection and Affordable Care Act, Pub. L. No. 111-148, may not  
 713 provide coverage for an induced abortion as defined in and  
 714 prohibited under s. 390.01113 or for a termination of pregnancy  
 715 in violation of s. 390.01113(4) s. 390.011(1), ~~except if the~~  
 716 ~~pregnancy is the result of an act of rape or incest, or in the~~  
 717 ~~case where a woman suffers from a physical disorder, physical~~  
 718 ~~injury, or physical illness, including a life-endangering~~  
 719 ~~physical condition caused by or arising from the pregnancy~~  
 720 ~~itself, which would, as certified by a physician, place the~~  
 721 ~~woman in danger of death unless an abortion is performed.~~

722 Coverage is deemed to be purchased with state or federal funds  
 723 if any tax credit or cost-sharing credit is applied toward the  
 724 health insurance policy.

725 Section 22. Paragraph (a) of subsection (17) of section  
 726 627.6699, Florida Statutes, is amended to read:

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727 627.6699 Employee Health Care Access Act.—

728 (17) RESTRICTIONS ON COVERAGE.—

729 (a) A plan under which coverage is purchased in whole or  
 730 in part with any state or federal funds through an exchange  
 731 created pursuant to the federal Patient Protection and  
 732 Affordable Care Act, Pub. L. No. 111-148, may not provide  
 733 coverage for an induced abortion, as defined in and prohibited  
 734 under s. 390.01113 or for a termination of pregnancy in  
 735 violation of s. 390.01113(4) s. 390.011(1), except if the  
 736 ~~pregnancy is the result of an act of rape or incest, or in the~~  
 737 ~~case where a woman suffers from a physical disorder, physical~~  
 738 ~~injury, or physical illness, including a life-endangering~~  
 739 ~~physical condition caused by or arising from the pregnancy~~  
 740 ~~itself, which would, as certified by a physician, place the~~  
 741 ~~woman in danger of death unless an abortion is performed.~~  
 742 Coverage is deemed to be purchased with state or federal funds  
 743 if any tax credit or cost-sharing credit is applied toward the  
 744 plan.

745 Section 23. Subsection (1) of section 627.66996, Florida  
 746 Statutes, is amended to read:

747 627.66996 Restrictions on use of state and federal funds  
 748 for state exchanges.—

749 (1) A group, franchise, or blanket health insurance policy  
 750 under which coverage is purchased in whole or in part with any  
 751 state or federal funds through an exchange created pursuant to  
 752 the federal Patient Protection and Affordable Care Act, Pub. L.  
 753 No. 111-148, may not provide coverage for an induced abortion as  
 754 defined in and prohibited under s. 390.01113 or for a

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755 termination of pregnancy in violation of s. 390.01113(4) s.  
756 ~~390.011(1), except if the pregnancy is the result of an act of~~  
757 ~~rape or incest, or in the case where a woman suffers from a~~  
758 ~~physical disorder, physical injury, or physical illness,~~  
759 ~~including a life-endangering physical condition caused by or~~  
760 ~~arising from the pregnancy itself, which would, as certified by~~  
761 ~~a physician, place the woman in danger of death unless an~~  
762 ~~abortion is performed.~~ Coverage is deemed to be purchased with  
763 state or federal funds if any tax credit or cost-sharing credit  
764 is applied toward the group, franchise, or blanket health  
765 insurance policy.

766 Section 24. Subsection (1) of section 641.31099, Florida  
767 Statutes, is amended to read:

768 641.31099 Restrictions on use of state and federal funds  
769 for state exchanges.—

770 (1) A health maintenance contract under which coverage is  
771 purchased in whole or in part with any state or federal funds  
772 through an exchange created pursuant to the federal Patient  
773 Protection and Affordable Care Act, Pub. L. No. 111-148, may not  
774 provide coverage for an induced abortion as defined in and  
775 prohibited under s. 390.01113 or for a termination of pregnancy  
776 in violation of s. 390.01113(4) s. 390.011(1), except if the  
777 ~~pregnancy is the result of an act of rape or incest, or in the~~  
778 ~~case where a woman suffers from a physical disorder, physical~~  
779 ~~injury, or physical illness, including a life-endangering~~  
780 ~~physical condition caused by or arising from the pregnancy~~  
781 ~~itself, which would, as certified by a physician, place the~~  
782 ~~woman in danger of death unless an abortion is performed.~~

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783 Coverage is deemed to be purchased with state or federal funds  
 784 if any tax credit or cost-sharing credit is applied toward the  
 785 health maintenance contract.

786 Section 25. Subsection (3) of section 743.065, Florida  
 787 Statutes, is amended to read:

788 743.065 Unwed pregnant minor or minor mother; consent to  
 789 medical services for minor or minor's child valid.—

790 ~~(3) Nothing in this act shall affect the provisions of s.~~  
 791 ~~390.0111.~~

792 Section 26. Subsection (2) of section 765.113, Florida  
 793 Statutes, is amended to read:

794 765.113 Restrictions on providing consent.—Unless the  
 795 principal expressly delegates such authority to the surrogate in  
 796 writing, or a surrogate or proxy has sought and received court  
 797 approval pursuant to rule 5.900 of the Florida Probate Rules, a  
 798 surrogate or proxy may not provide consent for:

799 (2) Withholding or withdrawing life-prolonging procedures  
 800 from a pregnant patient prior to viability as defined in s.  
 801 390.01113 ~~390.0111(4)~~.

802 Section 27. If section 390.01117, Florida Statutes, as  
 803 created by this act, is declared unconstitutional or has its  
 804 enforcement permanently enjoined, the repeal of section 390.011,  
 805 Florida Statutes, and the amendment of section 39.001, Florida  
 806 Statutes, by this act, shall be deemed to be void and of no  
 807 effect, it being the legislative intent that these provisions  
 808 would not have been enacted had section 390.01113, Florida  
 809 Statutes, or section 390.01117, Florida Statutes, not been  
 810 enacted as well.

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811           Section 28. If section 390.01113, Florida Statutes, as  
812 created by this act, is declared unconstitutional or has its  
813 enforcement permanently enjoined, the statutory repeals and  
814 amendments contained in sections 6 through 26 of this act shall  
815 be deemed to be void and of no effect, and the text of any  
816 amended provisions shall revert to that in existence on the day  
817 before the effective date of this act, except that any  
818 amendments to such text enacted other than by this act shall be  
819 preserved and continue to operate, it being the legislative  
820 intent that these provisions would not have been enacted had  
821 section 390.01113, Florida Statutes, not been enacted as well.

822           Section 29. This act shall take effect July 1, 2012.