

HB 277

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

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

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

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

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

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

125

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

127

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

130 390.011 Definitions.—As used in this chapter, the term:

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

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

136 (a) A hospital; or

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

139 (3) "Agency" means the Agency for Health Care  
 140 Administration.

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

150           ~~(5)~~(4) "Department" means the Department of Health.

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

158           ~~(7)~~(5) "Hospital" means a facility as defined in s.  
 159 395.002(12) and licensed under chapter 395 and part II of  
 160 chapter 408.

161           (8) "Medical emergency" means a condition that, on the  
 162 basis of a physician's good faith clinical judgment, so  
 163 complicates the medical condition of a pregnant woman as to  
 164 necessitate the immediate termination of her pregnancy to avert  
 165 her death, or for which a delay in the termination of her  
 166 pregnancy will create serious risk of substantial and  
 167 irreversible impairment of a major bodily function.

168           ~~(9)~~(6) "Partial-birth abortion" means an abortion a

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169 ~~termination of pregnancy~~ in which the physician performing the  
 170 abortion: ~~termination of pregnancy partially vaginally delivers~~  
 171 ~~a living fetus before killing the fetus and completing the~~  
 172 ~~delivery.~~

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

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

182 (10)-(7) "Physician" means a physician licensed under  
 183 chapter 458 or chapter 459 or a physician practicing medicine or  
 184 osteopathic medicine in the employment of the United States.

185 (11)-(8) "Third trimester" means the weeks of pregnancy  
 186 after the 24th week of pregnancy.

187 (12) "Viability" means that stage of fetal development  
 188 when the life of the unborn child may, with a reasonable degree  
 189 of medical probability, be continued indefinitely outside the  
 190 womb.

191 Section 2. Section 390.0111, Florida Statutes, is amended  
 192 to read:

193 390.0111 Abortions ~~Termination of pregnancies.~~

194 (1) ABORTION TERMINATION IN THIRD TRIMESTER OR AFTER  
 195 VIABILITY; WHEN ALLOWED. ~~An abortion may not~~ ~~No termination of~~  
 196 ~~pregnancy shall be performed on any human being in the third~~

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197 trimester or after the period at which, in the best medical  
 198 judgment of the physician, the fetus has attained viability ~~of~~  
 199 ~~pregnancy~~ unless:

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

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

211 (2) PHYSICIAN AND LOCATION REQUIREMENTS ~~PERFORMANCE BY~~  
 212 ~~PHYSICIAN REQUIRED.~~

213 (a) An abortion may not ~~No termination of pregnancy shall~~  
 214 be performed at any time except by a physician ~~as defined in s.~~  
 215 ~~390.011.~~

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

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

221 1. In the third trimester, or after the fetus has attained  
 222 viability, in a location other than in a hospital.

223 2. In cases in which subparagraph 1. does not apply, in a  
 224 location other than a hospital, a validly licensed abortion



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225 clinic, or a physician's office.

226 (3) CONSENTS REQUIRED.—An abortion ~~A termination of~~  
227 ~~pregnancy~~ may not be performed or induced except with the  
228 voluntary and informed written consent of the pregnant woman or,  
229 in the case of a mental incompetent, the voluntary and informed  
230 written consent of her court-appointed guardian.

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

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

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

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

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

250 (II) The person performing the ultrasound must offer the  
251 woman the opportunity to view the live ultrasound images and  
252 hear an explanation of them. If the woman accepts the

253 opportunity to view the images and hear the explanation, a  
254 physician or a registered nurse, licensed practical nurse,  
255 advanced registered nurse practitioner, or physician assistant  
256 working in conjunction with the physician must contemporaneously  
257 review and explain the images to the woman before the woman  
258 gives informed consent to having an abortion procedure  
259 performed.

260 (III) The woman has a right to decline to view and hear  
261 the explanation of the live ultrasound images after she is  
262 informed of her right and offered an opportunity to view the  
263 images and hear the explanation. If the woman declines, the  
264 woman shall complete a form acknowledging that she was offered  
265 an opportunity to view and hear the explanation of the images  
266 but that she declined that opportunity. The form must also  
267 indicate that the woman's decision was not based on any undue  
268 influence from any person to discourage her from viewing the  
269 images or hearing the explanation and that she declined of her  
270 own free will.

271 (IV) Unless requested by the woman, the person performing  
272 the ultrasound may not offer the opportunity to view the images  
273 and hear the explanation and the explanation may not be given  
274 if, at the time the woman schedules or arrives for her  
275 appointment to obtain an abortion, a copy of a restraining  
276 order, police report, medical record, or other court order or  
277 documentation is presented which provides evidence that the  
278 woman is obtaining the abortion because the woman is a victim of  
279 rape, incest, domestic violence, or human trafficking or that  
280 the woman has been diagnosed as having a condition that, on the

281 basis of a physician's good faith clinical judgment, would  
 282 create a serious risk of substantial and irreversible impairment  
 283 of a major bodily function if the woman delayed terminating her  
 284 pregnancy.

285 c. The medical risks to the woman and fetus of carrying  
 286 the pregnancy to term.

287 2. Printed materials prepared and provided by the  
 288 department have been provided to the pregnant woman, if she  
 289 chooses to view these materials, including:

290 a. A description of the fetus, including a description of  
 291 the various stages of development.

292 b. A list of entities that offer alternatives to abortion  
 293 ~~terminating the pregnancy~~.

294 c. Detailed information on the availability of medical  
 295 assistance benefits for prenatal care, childbirth, and neonatal  
 296 care.

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

300  
 301 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prohibit a  
 302 physician from providing any additional information that ~~which~~  
 303 the physician deems material to the woman's informed decision to  
 304 obtain an abortion ~~terminate her pregnancy~~.

305 (b) If a medical emergency exists and a physician cannot  
 306 comply with the requirements for informed consent, a physician  
 307 may perform an abortion ~~terminate a pregnancy~~ if he or she has  
 308 obtained at least one corroborative medical opinion attesting to

309 the medical necessity for emergency medical procedures and to  
 310 the fact that to a reasonable degree of medical certainty the  
 311 continuation of the pregnancy would threaten the life of the  
 312 pregnant woman. If a second physician is not available for a  
 313 corroborating opinion, the physician may proceed but shall  
 314 document reasons for the medical necessity in the patient's  
 315 medical records.

316 (c) Violation of this subsection by a physician  
 317 constitutes grounds for disciplinary action under s. 458.331 or  
 318 s. 459.015. Substantial compliance or reasonable belief that  
 319 noncompliance ~~complying~~ with the requirements of this subsection  
 320 is necessary to prevent the death of the pregnant woman or a  
 321 substantial and irreversible impairment of a major bodily  
 322 function of the pregnant woman ~~informed consent would threaten~~  
 323 ~~the life or health of the patient~~ is a defense to any action  
 324 brought under this paragraph.

325 (4) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—  
 326 If an abortion ~~a termination of pregnancy~~ is performed during  
 327 viability, a ~~ne~~ person who performs or induces the abortion  
 328 ~~termination of pregnancy~~ shall ~~fail to~~ use that degree of  
 329 professional skill, care, and diligence to preserve the life and  
 330 health of the fetus which such person would be required to  
 331 exercise in order to preserve the life and health of any fetus  
 332 intended to be born and not aborted. ~~"Viability" means that~~  
 333 ~~stage of fetal development when the life of the unborn child may~~  
 334 ~~with a reasonable degree of medical probability be continued~~  
 335 ~~indefinitely outside the womb.~~ Notwithstanding the provisions of  
 336 this subsection, the prevention of the death of the pregnant

337 woman or a substantial and irreversible impairment of a major  
 338 bodily function of the pregnant woman constitutes ~~the woman's~~  
 339 ~~life and health shall constitute~~ an overriding and superior  
 340 consideration to the concern for the life and health of the  
 341 fetus when such concerns are in conflict.

342 (5) PARTIAL-BIRTH ABORTION PROHIBITED; EXCEPTION.—

343 (a) A ~~No~~ physician may not ~~shall~~ knowingly perform a  
 344 partial-birth abortion and thereby kill a human fetus.

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

348 (c) This subsection does ~~shall~~ not apply to a partial-  
 349 birth abortion that is necessary to save the life of a mother  
 350 whose life is endangered by a physical disorder, physical  
 351 illness, or physical injury, including a life-endangering  
 352 physical condition cause by or arising from the pregnancy  
 353 itself, if provided that no other medical procedure would  
 354 suffice for that purpose.

355 (6) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—A ~~No~~  
 356 person may not ~~shall~~ use any live fetus or live, premature  
 357 infant for any type of scientific, research, laboratory, or  
 358 other kind of experimentation before ~~either prior to~~ or  
 359 subsequent to any abortion ~~termination of pregnancy~~ procedure  
 360 except as necessary to protect or preserve the life and health  
 361 of such fetus or premature infant.

362 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a  
 363 sanitary and appropriate manner and in accordance with standard  
 364 health practices, as provided by rule of the department ~~of~~

365 ~~Health~~. Failure to dispose of fetal remains in accordance with  
 366 department rules is a misdemeanor of the first ~~second~~ degree,  
 367 punishable as provided in s. 775.082 or s. 775.083.

368 (8) REFUSAL TO PARTICIPATE IN ABORTION ~~TERMINATION~~  
 369 PROCEDURE.—~~Nothing in~~ This section does not ~~shall~~ require any  
 370 hospital or any person to participate in an abortion ~~the~~  
 371 ~~termination of a pregnancy,~~ and a ~~nor shall~~ any hospital or any  
 372 person is not ~~be~~ liable for such refusal. A ~~No~~ person who is a  
 373 member of, or associated with, the staff of a hospital, or ~~nor~~  
 374 any employee of a hospital or physician in which or by whom the  
 375 abortion ~~termination of a pregnancy~~ has been authorized or  
 376 performed, who states ~~shall state~~ an objection to such procedure  
 377 on moral or religious grounds is not ~~shall be~~ required to  
 378 participate in the procedure that ~~which~~ will result in the  
 379 abortion ~~termination of pregnancy~~. The refusal of any such  
 380 person or employee to participate does ~~shall~~ not form the basis  
 381 for any disciplinary or other recriminatory action against such  
 382 person.

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

386 (10) PENALTIES FOR VIOLATION.—Except as provided in  
 387 subsections (3) and (7):

388 (a) Any person who willfully performs, or actively  
 389 participates in, an abortion ~~a termination of pregnancy~~  
 390 procedure in violation of the requirements of this section  
 391 commits a felony of the third degree, punishable as provided in  
 392 s. 775.082, s. 775.083, or s. 775.084.

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

398 (c) The department shall permanently revoke the license of  
 399 any licensed health care practitioner who has been convicted or  
 400 found guilty of, or entered a plea of guilty or nolo contendere  
 401 to, regardless of adjudication, a felony as provided in this  
 402 subsection.

403 (11) CIVIL ACTION PURSUANT TO PARTIAL-BIRTH ABORTION;  
 404 RELIEF.—

405 (a) The father, if married to the mother at the time she  
 406 receives a partial-birth abortion, and, if the mother has not  
 407 attained the age of 18 years at the time she receives a partial-  
 408 birth abortion, the maternal grandparents of the fetus may, in a  
 409 civil action, obtain appropriate relief, unless the pregnancy  
 410 resulted from the plaintiff's criminal conduct or the plaintiff  
 411 consented to the abortion.

412 (b) In a civil action under this section, appropriate  
 413 relief includes:

414 1. Monetary damages for all injuries, psychological and  
 415 physical, occasioned by the violation of subsection (5).

416 2. Damages equal to three times the cost of the partial-  
 417 birth abortion.

418 (12) INFANTS BORN ALIVE.—

419 (a) An infant born alive subsequent to an attempted  
 420 abortion is entitled to the same rights, powers, and privileges

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421 as are granted by the laws of this state to any other child born  
422 alive in the course of birth that is not subsequent to an  
423 attempted abortion.

424 (b) If an infant is born alive subsequent to an attempted  
425 abortion, any health care practitioner present at the time shall  
426 humanely exercise the same degree of professional skill, care,  
427 and diligence to preserve the life and health of the infant as a  
428 reasonably diligent and conscientious health care practitioner  
429 would render to an infant born alive in the course of birth that  
430 is not subsequent to an attempted abortion.

431 (c) An abortion may not be attempted pursuant to paragraph  
432 (1)(a) unless a physician other than the physician performing  
433 the abortion is in attendance to take control of any infant born  
434 alive, to provide immediate medical care to the infant, and to  
435 discharge the obligations imposed by paragraph (b). The  
436 physician who performs the abortion shall take all reasonable  
437 steps consistent with the abortion procedure to preserve the  
438 life and health of the unborn child.

439 (d) A health care practitioner who has knowledge of a  
440 violation of this subsection shall report the violation to the  
441 department.

442 (13) PUBLIC NOTICES AND ADVERTISEMENTS.—

443 (a) A person may not knowingly advertise, print, publish,  
444 distribute, or circulate, or knowingly cause to be advertised,  
445 printed, published, distributed, or circulated, any pamphlet,  
446 printed paper, book, newspaper notice, advertisement, or  
447 reference containing words or language giving or conveying any  
448 notice, hint, or reference to any person, or the name of any



449 person, real or fictitious, from whom, or to any place, house,  
 450 shop, or office where any poison, drug, mixture, preparation,  
 451 medicine, or noxious thing, or any instrument or means whatever,  
 452 or any advice, direction, information, or knowledge that may be  
 453 obtained for the purpose of performing an abortion in violation  
 454 of this chapter.

455 (b) An abortion clinic must provide conspicuous written  
 456 notice on its premises and on any advertisement that the  
 457 abortion clinic is prohibited, except in a medical emergency,  
 458 from performing abortions in the third trimester or after the  
 459 fetus has attained viability.

460 (c) Any person who violates this subsection commits a  
 461 misdemeanor of the first degree, punishable as provided in s.  
 462 775.082 or s. 775.083.

463 (14) RESPONSIBILITIES OF THE AGENCY.—Before each regular  
 464 legislative session, the agency shall report aggregate  
 465 statistical data relating to abortions, which has been reported  
 466 to the Division of Reproductive Health within the Centers for  
 467 Disease Control and Prevention, on its website and provide an  
 468 annual report to the Governor, the President of the Senate, and  
 469 the Speaker of the House of Representatives regarding such data.  
 470 Any information required to be reported under this subsection  
 471 must not include any personal identifying information.

472 (15)~~(12)~~ FAILURE TO COMPLY.—Failure to comply with the  
 473 requirements of this section constitutes grounds for  
 474 disciplinary action under each respective practice act and under  
 475 s. 456.072.

476 (16)~~(13)~~ RULES.—The applicable boards, or the department

477 if there is no board, shall adopt rules necessary to implement  
 478 the provisions of this section.

479 Section 3. Section 390.01114, Florida Statutes, is amended  
 480 to read:

481 390.01114 Parental Notice of Abortion Act.—

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

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

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

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

493 (c) "Constructive notice" means notice that is given in  
 494 writing, signed by the physician, and mailed at least 72 hours  
 495 before the inducement or performance of the abortion ~~termination~~  
 496 ~~of pregnancy~~, to the last known address of the parent or legal  
 497 guardian of the minor, by first-class mail and by certified  
 498 mail, return receipt requested, and delivery restricted to the  
 499 parent or legal guardian. After the 72 hours have passed,  
 500 delivery is deemed to have occurred.

501 ~~(d) "Medical emergency" means a condition that, on the~~  
 502 ~~basis of a physician's good faith clinical judgment, so~~  
 503 ~~complicates the medical condition of a pregnant woman as to~~  
 504 ~~necessitate the immediate termination of her pregnancy to avert~~

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505 ~~her death, or for which a delay in the termination of her~~  
506 ~~pregnancy will create serious risk of substantial and~~  
507 ~~irreversible impairment of a major bodily function.~~

508 (d) ~~(e)~~ "Sexual abuse" has the meaning ascribed in s.  
509 39.01.

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

511 (3) NOTIFICATION REQUIRED.—

512 (a) Actual notice shall be provided by the physician  
513 performing or inducing an abortion with respect to the  
514 ~~termination of pregnancy before the performance or inducement of~~  
515 ~~the termination of~~ the pregnancy of a minor. The notice may be  
516 given by a referring physician. The physician who performs or  
517 induces the abortion ~~termination of pregnancy~~ must receive the  
518 written statement of the referring physician certifying that the  
519 referring physician has given notice. If actual notice is not  
520 possible after a reasonable effort has been made, the physician  
521 performing or inducing the abortion ~~termination of pregnancy~~ or  
522 the referring physician must give constructive notice. Notice  
523 given under this subsection by the physician performing or  
524 inducing the abortion ~~termination of pregnancy~~ must include the  
525 name and address of the facility providing the abortion  
526 ~~termination of pregnancy~~ and the name of the physician providing  
527 notice. Notice given under this subsection by a referring  
528 physician must include the name and address of the facility  
529 where he or she is referring the minor and the name of the  
530 physician providing notice. If actual notice is provided by  
531 telephone, the physician must actually speak with the parent or  
532 guardian, and must record in the minor's medical file the name

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533 of the parent or guardian provided notice, the phone number  
534 dialed, and the date and time of the call. If constructive  
535 notice is given, the physician must document that notice by  
536 placing copies of any document related to the constructive  
537 notice, including, but not limited to, a copy of the letter and  
538 the return receipt, in the minor's medical file. Actual notice  
539 given by telephone shall be confirmed in writing, signed by the  
540 physician, and mailed to the last known address of the parent or  
541 legal guardian of the minor, by first-class mail and by  
542 certified mail, return receipt requested, with delivery  
543 restricted to the parent or legal guardian.

544 (b) Notice is not required if:

545 1. In the physician's good faith clinical judgment, a  
546 medical emergency exists and there is insufficient time for the  
547 attending physician to comply with the notification  
548 requirements. If a medical emergency exists, the physician shall  
549 make reasonable attempts, whenever possible, without endangering  
550 the minor, to contact the parent or legal guardian, and may  
551 proceed, but must document reasons for the medical necessity in  
552 the patient's medical records. The physician shall provide  
553 notice directly, in person or by telephone, to the parent or  
554 legal guardian, including details of the medical emergency and  
555 any additional risks to the minor. If the parent or legal  
556 guardian has not been notified within 24 hours after the  
557 abortion ~~termination of the pregnancy~~, the physician shall  
558 provide notice in writing, including details of the medical  
559 emergency and any additional risks to the minor, signed by the  
560 physician, to the last known address of the parent or legal

561 guardian of the minor, by first-class mail and by certified  
 562 mail, return receipt requested, with delivery restricted to the  
 563 parent or legal guardian;

564 2. Notice is waived in writing by the person who is  
 565 entitled to notice and such waiver is notarized, dated not more  
 566 than 30 days before the abortion ~~termination of pregnancy~~, and  
 567 contains a specific waiver of the right of the parent or legal  
 568 guardian to notice of the minor's abortion ~~termination of~~  
 569 ~~pregnancy~~;

570 3. Notice is waived by the minor who is or has been  
 571 married or has had the disability of nonage removed under s.  
 572 743.015 or a similar statute of another state;

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

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

576 (c) Violation of this subsection by a physician  
 577 constitutes grounds for disciplinary action under s. 458.331 or  
 578 s. 459.015.

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

580 (a) A minor may petition any circuit court in which the  
 581 minor resides for a waiver of the notice requirements of  
 582 subsection (3) and may participate in proceedings on her own  
 583 behalf. The petition may be filed under a pseudonym or through  
 584 the use of initials, as provided by court rule. The petition  
 585 must include a statement that the petitioner is pregnant and  
 586 notice has not been waived. The court shall advise the minor  
 587 that she has a right to court-appointed counsel and shall  
 588 provide her with counsel upon her request at no cost to the

589 | minor.

590 |         (b)1. Court proceedings under this subsection must be  
 591 | given precedence over other pending matters to the extent  
 592 | necessary to ensure that the court reaches a decision promptly.  
 593 | The court shall rule, and issue written findings of fact and  
 594 | conclusions of law, within 3 business days after the petition is  
 595 | filed, except that the 3-business-day limitation may be extended  
 596 | at the request of the minor. If the court fails to rule within  
 597 | the 3-business-day period and an extension has not been  
 598 | requested, the minor may immediately petition for a hearing upon  
 599 | the expiration of the 3-business-day period to the chief judge  
 600 | of the circuit, who must ensure a hearing is held within 48  
 601 | hours after receipt of the minor's petition and an order is  
 602 | entered within 24 hours after the hearing.

603 |         2. If the circuit court does not grant judicial waiver of  
 604 | notice, the minor has the right to appeal. An appellate court  
 605 | must rule within 7 days after receipt of appeal, but a ruling  
 606 | may be remanded with further instruction for a ruling within 3  
 607 | business days after the remand. The reason for overturning a  
 608 | ruling on appeal must be based on abuse of discretion by the  
 609 | court and may not be based on the weight of the evidence  
 610 | presented to the circuit court since the proceeding is a  
 611 | nonadversarial proceeding.

612 |         (c) If the court finds, by clear and convincing evidence,  
 613 | that the minor is sufficiently mature to decide whether to  
 614 | obtain an abortion ~~terminate her pregnancy~~, the court shall  
 615 | issue an order authorizing the minor to consent to the  
 616 | performance or inducement of an abortion ~~a termination of~~

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617 ~~pregnancy~~ without the notification of a parent or guardian. If  
618 the court does not make the finding specified in this paragraph  
619 or paragraph (d), it must dismiss the petition. Factors the  
620 court shall consider include:

621 1. The minor's:

622 a. Age.

623 b. Overall intelligence.

624 c. Emotional development and stability.

625 d. Credibility and demeanor as a witness.

626 e. Ability to accept responsibility.

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

629 g. Ability to understand and explain the medical risks of  
630 an abortion ~~terminating her pregnancy~~ and to apply that  
631 understanding to her decision.

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

634 (d) If the court finds, by a preponderance of the  
635 evidence, that the petitioner is the victim of child abuse or  
636 sexual abuse inflicted by one or both of her parents or her  
637 guardian, or by clear and convincing evidence that the  
638 notification of a parent or guardian is not in the best interest  
639 of the petitioner, the court shall issue an order authorizing  
640 the minor to consent to the performance or inducement of an  
641 abortion ~~a termination of pregnancy~~ without the notification of  
642 a parent or guardian. The best-interest standard does not  
643 include financial best interest or financial considerations or  
644 the potential financial impact on the minor or the minor's

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645 family if the minor does not obtain the abortion ~~terminate the~~  
646 ~~pregnancy~~. If the court finds evidence of child abuse or sexual  
647 abuse of the minor petitioner by any person, the court shall  
648 report the evidence of child abuse or sexual abuse of the  
649 petitioner, as provided in s. 39.201. If the court does not make  
650 the finding specified in this paragraph or paragraph (c), it  
651 must dismiss the petition.

652 (e) A court that conducts proceedings under this section  
653 shall:

654 1. Provide for a written transcript of all testimony and  
655 proceedings;

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

660 3. Order that a confidential record be maintained, as  
661 required under s. 390.01116.

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

665 (g) An expedited appeal shall be made available, as the  
666 Supreme Court provides by rule, to any minor to whom the circuit  
667 court denies a waiver of notice. An order authorizing an  
668 abortion ~~a termination of pregnancy~~ without notice is not  
669 subject to appeal.

670 (h) Filing fees or court costs may not be required of any  
671 pregnant minor who petitions a court for a waiver of parental  
672 notification under this subsection at either the trial or the



673 appellate level.

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

677 (5) PROCEEDINGS.—The Supreme Court is requested to adopt  
678 rules and forms for petitions to ensure that proceedings under  
679 subsection (4) are handled expeditiously and in a manner  
680 consistent with this act. The Supreme Court is also requested to  
681 adopt rules to ensure that the hearings protect the minor's  
682 confidentiality and the confidentiality of the proceedings.

683 (6) REPORT.—The Supreme Court, through the Office of the  
684 State Courts Administrator, shall report by February 1 of each  
685 year to the Governor, the President of the Senate, and the  
686 Speaker of the House of Representatives on the number of  
687 petitions filed under subsection (4) for the preceding year, and  
688 the timing and manner of disposal of such petitions by each  
689 circuit court. For each petition resulting in a waiver of  
690 notice, the reason for the waiver shall be included in the  
691 report.

692 Section 4. Section 390.0112, Florida Statutes, is amended  
693 to read:

694 390.0112 Abortions ~~Termination of pregnancies~~; reporting.—

695 (1) The director of any hospital, validly licensed  
696 abortion clinic, or physician's office ~~medical facility~~ in which  
697 an abortion is performed ~~any pregnancy is terminated~~ shall  
698 submit a ~~monthly~~ report each month to the agency on a form  
699 developed by the agency which is consistent with the U.S.  
700 Standard Report of Induced Termination of Pregnancy from the

701 Centers for Disease Control and Prevention. The report must not  
 702 contain any personal identifying information ~~which contains the~~  
 703 ~~number of procedures performed, the reason for same, and the~~  
 704 ~~period of gestation at the time such procedures were performed~~  
 705 ~~to the agency.~~ The agency shall be responsible for keeping such  
 706 reports in a central place from which statistical data and  
 707 analysis can be made. The agency shall submit reported data to  
 708 the Division of Reproductive Health within the Centers for  
 709 Disease Control and Prevention.

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

715 (3) Reports submitted pursuant to this section shall be  
 716 confidential and exempt from the provisions of s. 119.07(1) and  
 717 shall not be revealed except upon the order of a court of  
 718 competent jurisdiction in a civil or criminal proceeding or as  
 719 required in subsection (1).

720 (4) Any person required under this section to file a  
 721 report or keep any records who willfully fails to file such  
 722 report or keep such records may be subject to a \$200 fine for  
 723 each violation. The agency shall ~~be required to~~ impose such  
 724 fines when reports or records required under this section have  
 725 not been timely received. For purposes of this section, timely  
 726 received is defined as 30 days following the preceding month.

727 (5) The agency may adopt rules necessary to administer  
 728 this section.

729 Section 5. Paragraphs (b) and (c) of subsection (1),  
 730 paragraph (a) of subsection (3), and subsection (6) of section  
 731 390.012, Florida Statutes, are amended to read:

732 390.012 Powers of agency; rules; disposal of fetal  
 733 remains.—

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

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

742 (c) The rules shall provide for:

743 1. The performance of abortion ~~pregnancy termination~~  
 744 procedures only by a licensed physician.

745 2. The making, protection, and preservation of patient  
 746 records, which shall be treated as medical records under chapter  
 747 458.

748 (3) For clinics that perform or claim to perform abortions  
 749 after the first trimester of pregnancy, the agency shall adopt  
 750 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
 751 provisions of this chapter, including the following:

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

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

756 2. Dressing rooms for staff and patients.

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- 757           3. Appropriate lavatory areas.
- 758           4. Areas for preprocedure hand washing.
- 759           5. Private procedure rooms.
- 760           6. Adequate lighting and ventilation for abortion  
761 procedures.
- 762           7. Surgical or gynecological examination tables and other  
763 fixed equipment.
- 764           8. Postprocedure recovery rooms that are equipped to meet  
765 the patients' needs.
- 766           9. Emergency exits to accommodate a stretcher or gurney.
- 767           10. Areas for cleaning and sterilizing instruments.
- 768           11. Adequate areas for the secure storage of medical  
769 records and necessary equipment and supplies.
- 770           12. The display in the abortion clinic, in a place that is  
771 conspicuous to all patients, of the clinic's current license  
772 issued by the agency.
- 773           13. Conspicuous written notice to be provided on the  
774 premises and on any advertisement of the abortion clinic, which  
775 must state that the abortion clinic is prohibited, except in a  
776 medical emergency, from performing abortions in the third  
777 trimester or after the fetus has attained viability.
- 778           (6) The agency may adopt and enforce rules, in the  
779 interest of protecting the public health, to ensure the prompt  
780 and proper disposal of fetal remains and tissue resulting from  
781 an abortion pregnancy termination.
- 782           Section 6. Subsection (1) of section 390.014, Florida  
783 Statutes, is amended, and subsections (5), (6), and (7) are  
784 added to that section to read:

785 390.014 Licenses; fees.—

786 (1) The requirements of part II of chapter 408 ~~shall~~ apply  
 787 to the provision of services that require licensure pursuant to  
 788 ss. 390.011-390.018 and part II of chapter 408 and to entities  
 789 licensed by or applying for such licensure from the agency ~~for~~  
 790 ~~Health Care Administration~~ pursuant to ss. 390.011-390.018. A  
 791 ~~license issued by the agency is required in order to operate a~~  
 792 ~~clinic in this state.~~

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

796 (6) A clinic must be wholly owned and operated by one or  
 797 more physicians who received residency training in performing  
 798 dilation-and-curettage and dilation-and-evacuation procedures or  
 799 by a professional corporation or limited liability company  
 800 composed solely of one or more such physicians. This subsection  
 801 does not apply to clinics licensed before July 1, 2012, or to  
 802 the renewal of licenses held by such clinics.

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

806 Section 7. Section 390.018, Florida Statutes, is amended  
 807 to read:

808 390.018 Administrative fine.—In addition to the  
 809 requirements of part II of chapter 408, the agency may impose a  
 810 fine upon the clinic in an amount not to exceed \$5,000 ~~\$1,000~~  
 811 for each violation of any provision of this chapter, part II of  
 812 chapter 408, or applicable rules.

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

815 456.013 Department; general licensing provisions.—

816 (7) (a) The boards, or the department when there is no  
817 board, shall require the completion of a 2-hour course relating  
818 to prevention of medical errors as part of the licensure and  
819 renewal process. The 2-hour course shall count towards the total  
820 number of continuing education hours required for the  
821 profession. The course shall be approved by the board or  
822 department, as appropriate, and shall include a study of root-  
823 cause analysis, error reduction and prevention, and patient  
824 safety. In addition, the course approved by the Board of  
825 Medicine and the Board of Osteopathic Medicine shall include  
826 information relating to the five most misdiagnosed conditions  
827 during the previous biennium, as determined by the board. If the  
828 course is being offered by a facility licensed pursuant to  
829 chapter 395 for its employees, the board may approve up to 1  
830 hour of the 2-hour course to be specifically related to error  
831 reduction and prevention methods used in that facility.

832 (b) In accordance with s. 390.0111, the board, or the  
833 department if there is no board, shall require a physician who  
834 offers to perform or performs abortions in an abortion clinic to  
835 annually complete a 3-hour course related to ethics as part of  
836 the licensure and renewal process. The 3-hour course shall count  
837 toward the total number of continuing education hours required  
838 for the profession. The applicable board, or the department if  
839 there is no board, shall approve the course, as appropriate.

840 Section 9. Section 765.113, Florida Statutes, is amended

841 to read:

842 765.113 Restrictions on providing consent.—Unless the  
 843 principal expressly delegates such authority to the surrogate in  
 844 writing, or a surrogate or proxy has sought and received court  
 845 approval pursuant to rule 5.900 of the Florida Probate Rules, a  
 846 surrogate or proxy may not provide consent for:

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

852 (2) Withholding or withdrawing life-prolonging procedures  
 853 from a pregnant patient prior to viability as defined in s.  
 854 390.011 ~~s. 390.0111(4)~~.

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

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

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

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

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

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

861 Section 16. If any provision of this act or its  
 862 application to any person or circumstance is held invalid, the  
 863 invalidity does not affect other provisions or applications of  
 864 the act which can be given effect without the invalid provision  
 865 or application, and to this end the provisions of this act are  
 866 severable.

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