

By Senator Flores

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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
29 a major bodily function of the pregnant woman

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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

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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
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.

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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,

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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 to
129 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 extraction
142 from the mother of a human infant, at any stage of development,
143 who, after such expulsion or extraction, breathes or has a
144 beating heart, pulsation of the umbilical cord, or definite and
145 voluntary movement of muscles, regardless of whether the

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146 umbilical cord has been cut and regardless of whether the
147 expulsion or extraction occurs as a result of natural or induced
148 labor, cesarean section, induced abortion, or other method.

149 (5)~~(4)~~ "Department" means the Department of Health.

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

157 (7)~~(5)~~ "Hospital" means a facility as defined in s.
158 395.002(12) and licensed under chapter 395 and part II of
159 chapter 408.

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

167 (9)~~(6)~~ "Partial-birth abortion" means an abortion a
168 termination of pregnancy in which the physician performing the
169 abortion: termination of pregnancy partially vaginally delivers
170 a living fetus before killing the fetus and completing the
171 delivery.

172 (a) Deliberately and intentionally vaginally delivers a
173 living fetus until, in the case of a head-first presentation,
174 the entire fetal head is outside the body of the mother, or, in

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175 the case of breech presentation, any part of the fetal trunk
 176 past the navel is outside the body of the mother, for the
 177 purpose of performing an overt act that the person knows will
 178 kill the partially delivered living fetus; and

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

181 (10)-(7) "Physician" means a physician licensed under
 182 chapter 458 or chapter 459 or a physician practicing medicine or
 183 osteopathic medicine in the employment of the United States.

184 (11)-(8) "Third trimester" means the weeks of pregnancy
 185 after the 24th week of pregnancy.

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

189 Section 2. Section 390.0111, Florida Statutes, is amended
 190 to read:

191 390.0111 Abortions ~~Termination of pregnancies.~~

192 (1) ABORTION TERMINATION IN THIRD TRIMESTER OR AFTER
 193 VIABILITY; WHEN ALLOWED. ~~An abortion may not~~ ~~No termination of~~
 194 ~~pregnancy shall be performed on any human being in the third~~
 195 trimester or after the period at which, in the best medical
 196 judgment of the physician, the fetus has attained viability ~~of~~
 197 ~~pregnancy unless:~~

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

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

209 (2) PHYSICIAN AND LOCATION REQUIREMENTS ~~PERFORMANCE BY~~
210 ~~PHYSICIAN REQUIRED.~~—

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

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

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

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

221 2. In cases in which subparagraph 1. does not apply, in a
222 location other than a hospital, a validly licensed abortion
223 clinic, or a physician's office.

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

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

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

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

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

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

248 (II) The person performing the ultrasound must offer the
249 woman the opportunity to view the live ultrasound images and
250 hear an explanation of them. If the woman accepts the
251 opportunity to view the images and hear the explanation, a
252 physician or a registered nurse, licensed practical nurse,
253 advanced registered nurse practitioner, or physician assistant
254 working in conjunction with the physician must contemporaneously
255 review and explain the images to the woman before the woman
256 gives informed consent to having an abortion procedure
257 performed.

258 (III) The woman has a right to decline to view and hear the
259 explanation of the live ultrasound images after she is informed
260 of her right and offered an opportunity to view the images and
261 hear the explanation. If the woman declines, the woman shall

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262 complete a form acknowledging that she was offered an
263 opportunity to view and hear the explanation of the images but
264 that she declined that opportunity. The form must also indicate
265 that the woman's decision was not based on any undue influence
266 from any person to discourage her from viewing the images or
267 hearing the explanation and that she declined of her own free
268 will.

269 (IV) Unless requested by the woman, the person performing
270 the ultrasound may not offer the opportunity to view the images
271 and hear the explanation and the explanation may not be given
272 if, at the time the woman schedules or arrives for her
273 appointment to obtain an abortion, a copy of a restraining
274 order, police report, medical record, or other court order or
275 documentation is presented which provides evidence that the
276 woman is obtaining the abortion because the woman is a victim of
277 rape, incest, domestic violence, or human trafficking or that
278 the woman has been diagnosed as having a condition that, on the
279 basis of a physician's good faith clinical judgment, would
280 create a serious risk of substantial and irreversible impairment
281 of a major bodily function if the woman delayed terminating her
282 pregnancy.

283 c. The medical risks to the woman and fetus of carrying the
284 pregnancy to term.

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

288 a. A description of the fetus, including a description of
289 the various stages of development.

290 b. A list of entities that offer alternatives to abortion

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291 ~~terminating the pregnancy.~~

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

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

298

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

303 (b) If a medical emergency exists and a physician cannot
304 comply with the requirements for informed consent, a physician
305 may perform an abortion ~~terminate a pregnancy~~ if he or she has
306 obtained at least one corroborative medical opinion attesting to
307 the medical necessity for emergency medical procedures and to
308 the fact that to a reasonable degree of medical certainty the
309 continuation of the pregnancy would threaten the life of the
310 pregnant woman. If a second physician is not available for a
311 corroborating opinion, the physician may proceed but shall
312 document reasons for the medical necessity in the patient's
313 medical records.

314 (c) Violation of this subsection by a physician constitutes
315 grounds for disciplinary action under s. 458.331 or s. 459.015.
316 Substantial compliance or reasonable belief that noncompliance
317 ~~complying~~ with the requirements of this subsection is necessary
318 to prevent the death of the pregnant woman or a substantial and
319 irreversible impairment of a major bodily function of the

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320 pregnant woman informed consent would threaten the life or
321 health of the patient is a defense to any action brought under
322 this paragraph.

323 (4) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—
324 If an abortion a termination of pregnancy is performed during
325 viability, a ~~no~~ person who performs or induces the abortion
326 ~~termination of pregnancy~~ shall ~~fail to~~ use that degree of
327 professional skill, care, and diligence to preserve the life and
328 health of the fetus which such person would be required to
329 exercise in order to preserve the life and health of any fetus
330 intended to be born and not aborted. ~~“Viability” means that~~
331 ~~stage of fetal development when the life of the unborn child may~~
332 ~~with a reasonable degree of medical probability be continued~~
333 ~~indefinitely outside the womb.~~ Notwithstanding the provisions of
334 this subsection, the prevention of the death of the pregnant
335 woman or a substantial and irreversible impairment of a major
336 bodily function of the pregnant woman constitutes ~~the woman's~~
337 ~~life and health shall constitute~~ an overriding and superior
338 consideration to the concern for the life and health of the
339 fetus when such concerns are in conflict.

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

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

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

346 (c) This subsection does shall not apply to a partial-birth
347 abortion that is necessary to save the life of a mother whose
348 life is endangered by a physical disorder, physical illness, or

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349 physical injury, including a life-endangering physical condition
350 cause by or arising from the pregnancy itself, if ~~provided that~~
351 no other medical procedure would suffice for that purpose.

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

359 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
360 sanitary and appropriate manner and in accordance with standard
361 health practices, as provided by rule of the department ~~of~~
362 ~~Health~~. Failure to dispose of fetal remains in accordance with
363 department rules is a misdemeanor of the first ~~second~~ degree,
364 punishable as provided in s. 775.082 or s. 775.083.

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

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378 for any disciplinary or other recriminatory action against such
379 person.

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

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

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

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

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

400 (11) CIVIL ACTION PURSUANT TO PARTIAL-BIRTH ABORTION;
401 RELIEF.—

402 (a) The father, if married to the mother at the time she
403 receives a partial-birth abortion, and, if the mother has not
404 attained the age of 18 years at the time she receives a partial-
405 birth abortion, the maternal grandparents of the fetus may, in a
406 civil action, obtain appropriate relief, unless the pregnancy

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407 resulted from the plaintiff's criminal conduct or the plaintiff
408 consented to the abortion.

409 (b) In a civil action under this section, appropriate
410 relief includes:

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

413 2. Damages equal to three times the cost of the partial-
414 birth abortion.

415 (12) INFANTS BORN ALIVE.—

416 (a) An infant born alive subsequent to an attempted
417 abortion is entitled to the same rights, powers, and privileges
418 as are granted by the laws of this state to any other child born
419 alive in the course of birth that is not subsequent to an
420 attempted abortion.

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

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

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436 (d) A health care practitioner who has knowledge of a
437 violation of this subsection shall report the violation to the
438 department.

439 (13) PUBLIC NOTICES AND ADVERTISEMENTS.—

440 (a) A person may not knowingly advertise, print, publish,
441 distribute, or circulate, or knowingly cause to be advertised,
442 printed, published, distributed, or circulated, any pamphlet,
443 printed paper, book, newspaper notice, advertisement, or
444 reference containing words or language giving or conveying any
445 notice, hint, or reference to any person, or the name of any
446 person, real or fictitious, from whom, or to any place, house,
447 shop, or office where any poison, drug, mixture, preparation,
448 medicine, or noxious thing, or any instrument or means whatever,
449 or any advice, direction, information, or knowledge that may be
450 obtained for the purpose of performing an abortion in violation
451 of this chapter.

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

457 (c) Any person who violates this subsection commits a
458 misdemeanor of the first degree, punishable as provided in s.
459 775.082 or s. 775.083.

460 (14) RESPONSIBILITIES OF THE AGENCY.—Before each regular
461 legislative session, the agency shall report aggregate
462 statistical data relating to abortions, which has been reported
463 to the Division of Reproductive Health within the Centers for
464 Disease Control and Prevention, on its website and provide an

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465 annual report to the Governor, the President of the Senate, and
 466 the Speaker of the House of Representatives regarding such data.
 467 Any information required to be reported under this subsection
 468 must not include any personal identifying information.

469 (15)~~(12)~~ FAILURE TO COMPLY.—Failure to comply with the
 470 requirements of this section constitutes grounds for
 471 disciplinary action under each respective practice act and under
 472 s. 456.072.

473 (16)~~(13)~~ RULES.—The applicable boards, or the department if
 474 there is no board, shall adopt rules necessary to implement the
 475 provisions of this section.

476 Section 3. Section 390.01114, Florida Statutes, is amended
 477 to read:

478 390.01114 Parental Notice of Abortion Act.—

479 (1) SHORT TITLE.—This section may be cited as the “Parental
 480 Notice of Abortion Act.”

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

482 (a) “Actual notice” means notice that is given directly, in
 483 person or by telephone, to a parent or legal guardian of a
 484 minor, by a physician, at least 48 hours before the inducement
 485 or performance of an abortion ~~a termination of pregnancy~~, and
 486 documented in the minor’s files.

487 (b) “Child abuse” means abandonment, abuse, harm, mental
 488 injury, neglect, physical injury, or sexual abuse of a child as
 489 those terms are defined in ss. 39.01, 827.04, and 984.03.

490 (c) “Constructive notice” means notice that is given in
 491 writing, signed by the physician, and mailed at least 72 hours
 492 before the inducement or performance of the abortion ~~termination~~
 493 ~~of pregnancy~~, to the last known address of the parent or legal

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494 guardian of the minor, by first-class mail and by certified
495 mail, return receipt requested, and delivery restricted to the
496 parent or legal guardian. After the 72 hours have passed,
497 delivery is deemed to have occurred.

498 ~~(d) "Medical emergency" means a condition that, on the~~
499 ~~basis of a physician's good faith clinical judgment, so~~
500 ~~complicates the medical condition of a pregnant woman as to~~
501 ~~necessitate the immediate termination of her pregnancy to avert~~
502 ~~her death, or for which a delay in the termination of her~~
503 ~~pregnancy will create serious risk of substantial and~~
504 ~~irreversible impairment of a major bodily function.~~

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

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

507 (3) NOTIFICATION REQUIRED.-

508 (a) Actual notice shall be provided by the physician
509 performing or inducing an abortion with respect to the
510 ~~termination of pregnancy before the performance or inducement of~~
511 ~~the termination of~~ the pregnancy of a minor. The notice may be
512 given by a referring physician. The physician who performs or
513 induces the abortion ~~termination of pregnancy~~ must receive the
514 written statement of the referring physician certifying that the
515 referring physician has given notice. If actual notice is not
516 possible after a reasonable effort has been made, the physician
517 performing or inducing the abortion ~~termination of pregnancy~~ or
518 the referring physician must give constructive notice. Notice
519 given under this subsection by the physician performing or
520 inducing the abortion ~~termination of pregnancy~~ must include the
521 name and address of the facility providing the abortion
522 ~~termination of pregnancy~~ and the name of the physician providing

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523 notice. Notice given under this subsection by a referring
524 physician must include the name and address of the facility
525 where he or she is referring the minor and the name of the
526 physician providing notice. If actual notice is provided by
527 telephone, the physician must actually speak with the parent or
528 guardian, and must record in the minor's medical file the name
529 of the parent or guardian provided notice, the phone number
530 dialed, and the date and time of the call. If constructive
531 notice is given, the physician must document that notice by
532 placing copies of any document related to the constructive
533 notice, including, but not limited to, a copy of the letter and
534 the return receipt, in the minor's medical file. Actual notice
535 given by telephone shall be confirmed in writing, signed by the
536 physician, and mailed to the last known address of the parent or
537 legal guardian of the minor, by first-class mail and by
538 certified mail, return receipt requested, with delivery
539 restricted to the parent or legal guardian.

540 (b) Notice is not required if:

541 1. In the physician's good faith clinical judgment, a
542 medical emergency exists and there is insufficient time for the
543 attending physician to comply with the notification
544 requirements. If a medical emergency exists, the physician shall
545 make reasonable attempts, whenever possible, without endangering
546 the minor, to contact the parent or legal guardian, and may
547 proceed, but must document reasons for the medical necessity in
548 the patient's medical records. The physician shall provide
549 notice directly, in person or by telephone, to the parent or
550 legal guardian, including details of the medical emergency and
551 any additional risks to the minor. If the parent or legal

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552 guardian has not been notified within 24 hours after the
553 abortion ~~termination of the pregnancy~~, the physician shall
554 provide notice in writing, including details of the medical
555 emergency and any additional risks to the minor, signed by the
556 physician, to the last known address of the parent or legal
557 guardian of the minor, by first-class mail and by certified
558 mail, return receipt requested, with delivery restricted to the
559 parent or legal guardian;

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

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

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

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

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

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

575 (a) A minor may petition any circuit court in which the
576 minor resides for a waiver of the notice requirements of
577 subsection (3) and may participate in proceedings on her own
578 behalf. The petition may be filed under a pseudonym or through
579 the use of initials, as provided by court rule. The petition
580 must include a statement that the petitioner is pregnant and

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581 notice has not been waived. The court shall advise the minor
582 that she has a right to court-appointed counsel and shall
583 provide her with counsel upon her request at no cost to the
584 minor.

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

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

607 (c) If the court finds, by clear and convincing evidence,
608 that the minor is sufficiently mature to decide whether to
609 obtain an abortion ~~terminate her pregnancy~~, the court shall

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610 issue an order authorizing the minor to consent to the
611 performance or inducement of an abortion ~~a termination of~~
612 ~~pregnancy~~ without the notification of a parent or guardian. If
613 the court does not make the finding specified in this paragraph
614 or paragraph (d), it must dismiss the petition. Factors the
615 court shall consider include:

616 1. The minor's:

617 a. Age.

618 b. Overall intelligence.

619 c. Emotional development and stability.

620 d. Credibility and demeanor as a witness.

621 e. Ability to accept responsibility.

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

624 g. Ability to understand and explain the medical risks of
625 an abortion ~~terminating her pregnancy~~ and to apply that
626 understanding to her decision.

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

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

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639 the minor or the minor's family if the minor does not obtain the
640 abortion ~~terminate the pregnancy~~. If the court finds evidence of
641 child abuse or sexual abuse of the minor petitioner by any
642 person, the court shall report the evidence of child abuse or
643 sexual abuse of the petitioner, as provided in s. 39.201. If the
644 court does not make the finding specified in this paragraph or
645 paragraph (c), it must dismiss the petition.

646 (e) A court that conducts proceedings under this section
647 shall:

648 1. Provide for a written transcript of all testimony and
649 proceedings;

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

654 3. Order that a confidential record be maintained, as
655 required under s. 390.01116.

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

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

664 (h) Filing fees or court costs may not be required of any
665 pregnant minor who petitions a court for a waiver of parental
666 notification under this subsection at either the trial or the
667 appellate level.

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

671 (5) PROCEEDINGS.—The Supreme Court is requested to adopt
672 rules and forms for petitions to ensure that proceedings under
673 subsection (4) are handled expeditiously and in a manner
674 consistent with this act. The Supreme Court is also requested to
675 adopt rules to ensure that the hearings protect the minor's
676 confidentiality and the confidentiality of the proceedings.

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

686 Section 4. Section 390.0112, Florida Statutes, is amended
687 to read:

688 390.0112 Abortions ~~Termination of pregnancies~~; reporting.—

689 (1) The director of any hospital, validly licensed abortion
690 clinic, or physician's office medical facility in which an
691 abortion is performed ~~any pregnancy is terminated~~ shall submit a
692 monthly report each month to the agency on a form developed by
693 the agency which is consistent with the U.S. Standard Report of
694 Induced Termination of Pregnancy from the Centers for Disease
695 Control and Prevention. The report must not contain any personal
696 identifying information ~~which contains the number of procedures~~

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697 ~~performed, the reason for same, and the period of gestation at~~
698 ~~the time such procedures were performed to the agency.~~ The
699 agency shall be responsible for keeping such reports in a
700 central place from which statistical data and analysis can be
701 made. The agency shall submit reported data to the Division of
702 Reproductive Health within the Centers for Disease Control and
703 Prevention.

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

709 (3) Reports submitted pursuant to this section shall be
710 confidential and exempt from the provisions of s. 119.07(1) and
711 shall not be revealed except upon the order of a court of
712 competent jurisdiction in a civil or criminal proceeding or as
713 required in subsection (1).

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

721 (5) The agency may adopt rules necessary to administer this
722 section.

723 Section 5. Paragraphs (b) and (c) of subsection (1),
724 paragraph (a) of subsection (3), and subsection (6) of section
725 390.012, Florida Statutes, are amended to read:

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726 390.012 Powers of agency; rules; disposal of fetal
727 remains.—

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

732 (b) The rules shall be in accordance with s. 390.0111(2) ~~s.~~
733 ~~797.03~~ and may not impose an unconstitutional burden on a
734 woman's freedom to decide whether to obtain an abortion
735 ~~terminate her pregnancy~~.

736 (c) The rules shall provide for:

737 1. The performance of abortion ~~pregnancy termination~~
738 procedures only by a licensed physician.

739 2. The making, protection, and preservation of patient
740 records, which shall be treated as medical records under chapter
741 458.

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

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

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

750 2. Dressing rooms for staff and patients.

751 3. Appropriate lavatory areas.

752 4. Areas for preprocedure hand washing.

753 5. Private procedure rooms.

754 6. Adequate lighting and ventilation for abortion

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755 procedures.

756 7. Surgical or gynecological examination tables and other
757 fixed equipment.

758 8. Postprocedure recovery rooms that are equipped to meet
759 the patients' needs.

760 9. Emergency exits to accommodate a stretcher or gurney.

761 10. Areas for cleaning and sterilizing instruments.

762 11. Adequate areas for the secure storage of medical
763 records and necessary equipment and supplies.

764 12. The display in the abortion clinic, in a place that is
765 conspicuous to all patients, of the clinic's current license
766 issued by the agency.

767 13. Conspicuous written notice to be provided on the
768 premises and on any advertisement of the abortion clinic, which
769 must state that the abortion clinic is prohibited, except in a
770 medical emergency, from performing abortions in the third
771 trimester or after the fetus has attained viability.

772 (6) The agency may adopt and enforce rules, in the interest
773 of protecting the public health, to ensure the prompt and proper
774 disposal of fetal remains and tissue resulting from an abortion
775 ~~pregnancy termination~~.

776 Section 6. Subsection (1) of section 390.014, Florida
777 Statutes, is amended, and subsections (5), (6), and (7) are
778 added to that section to read:

779 390.014 Licenses; fees.—

780 (1) The requirements of part II of chapter 408 ~~shall~~ apply
781 to the provision of services that require licensure pursuant to
782 ss. 390.011-390.018 and part II of chapter 408 and to entities
783 licensed by or applying for such licensure from the agency ~~for~~

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784 ~~Health Care Administration pursuant to ss. 390.011-390.018. A~~
785 ~~license issued by the agency is required in order to operate a~~
786 ~~clinic in this state.~~

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

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

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

800 Section 7. Section 390.018, Florida Statutes, is amended to
801 read:

802 390.018 Administrative fine.—In addition to the
803 requirements of part II of chapter 408, the agency may impose a
804 fine upon the clinic in an amount not to exceed \$5,000 ~~\$1,000~~
805 for each violation of any provision of this chapter, part II of
806 chapter 408, or applicable rules.

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

809 456.013 Department; general licensing provisions.—

810 (7) (a) The boards, or the department when there is no
811 board, shall require the completion of a 2-hour course relating
812 to prevention of medical errors as part of the licensure and

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813 renewal process. The 2-hour course shall count towards the total
814 number of continuing education hours required for the
815 profession. The course shall be approved by the board or
816 department, as appropriate, and shall include a study of root-
817 cause analysis, error reduction and prevention, and patient
818 safety. In addition, the course approved by the Board of
819 Medicine and the Board of Osteopathic Medicine shall include
820 information relating to the five most misdiagnosed conditions
821 during the previous biennium, as determined by the board. If the
822 course is being offered by a facility licensed pursuant to
823 chapter 395 for its employees, the board may approve up to 1
824 hour of the 2-hour course to be specifically related to error
825 reduction and prevention methods used in that facility.

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

834 Section 9. Section 765.113, Florida Statutes, is amended to
835 read:

836 765.113 Restrictions on providing consent.—Unless the
837 principal expressly delegates such authority to the surrogate in
838 writing, or a surrogate or proxy has sought and received court
839 approval pursuant to rule 5.900 of the Florida Probate Rules, a
840 surrogate or proxy may not provide consent for:

841 (1) Abortion, sterilization, electroshock therapy,

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842 psychosurgery, experimental treatments that have not been
843 approved by a federally approved institutional review board in
844 accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56, or
845 voluntary admission to a mental health facility.

846 (2) Withholding or withdrawing life-prolonging procedures
847 from a pregnant patient prior to viability as defined in s.
848 390.011 ~~s. 390.011(4)~~.

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

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

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

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

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

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

855 Section 16. If any provision of this act or its application
856 to any person or circumstance is held invalid, the invalidity
857 does not affect other provisions or applications of the act
858 which can be given effect without the invalid provision or
859 application, and to this end the provisions of this act are
860 severable.

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