

By Senator Evers

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

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30 or health concerns are in conflict; prohibiting a
31 physician's misrepresentation of the gestational age
32 or developmental stage of a viable fetus in any
33 medical record and failing to use the prescribed
34 standard of care on a viable fetus; providing criminal
35 penalties; prohibiting fetal experimentation;
36 providing an exception; requiring that fetal remains
37 be disposed of according to specified standards;
38 providing criminal penalties; excluding specified
39 procedures from application of the section; requiring
40 physicians and personnel at a medical facility to
41 provide certain women and minors who have been treated
42 by the facility with information regarding adoption
43 and a statewide list of attorneys available to provide
44 volunteer legal services for adoption; providing that
45 violation of certain provisions by a physician may be
46 grounds for discipline; providing rulemaking authority
47 to the Agency for Health Care Administration and the
48 Department of Health; creating s. 390.01117, F.S.;
49 providing that the section takes effect only if s.
50 390.01113, F.S., is declared unconstitutional or has
51 its enforcement enjoined; providing definitions;
52 prohibiting termination of a pregnancy after a fetus
53 has been determined to be viable; providing
54 exceptions; requiring a determination of viability for
55 women in a certain week of pregnancy or later before
56 termination may be performed; requiring an ultrasound
57 and recordkeeping; providing that determination of
58 viability and a required ultrasound may not be

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59 performed by a physician providing reproductive health
60 services at an abortion clinic; requiring that a
61 termination of pregnancy involving a viable fetus,
62 when not prohibited, be performed in a hospital or
63 other medical facility; providing a standard of care
64 for a termination of pregnancy performed while a fetus
65 is viable; providing that the woman's life is a
66 superior consideration to the concern for the life of
67 the fetus and the woman's health is a superior
68 consideration to the concern for the health of the
69 fetus when such life or health concerns are in
70 conflict; prohibiting a physician's misrepresentation
71 of the gestational age or developmental stage of a
72 viable fetus in any medical record and failing to use
73 the prescribed standard of care on a viable fetus;
74 providing criminal penalties; providing that only a
75 physician may perform a termination of pregnancy;
76 requiring voluntary and informed consent for a
77 termination of pregnancy; providing an exception for
78 medical emergencies; providing for documentation of a
79 medical emergency; providing that violations may
80 subject physicians to discipline; prohibiting
81 experimentation on a fetus; providing an exception;
82 requiring that fetal remains be disposed of according
83 to specified standards; providing criminal penalties;
84 providing that a person or facility is not required to
85 participate in the termination of a pregnancy or be
86 liable for such refusal; excluding specified
87 procedures from application of the section;

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88 prohibiting a termination of pregnancy procedure in
89 violation of specified requirements; providing
90 criminal penalties; prohibiting inflicting serious
91 bodily injury on a person in the course of performing
92 a termination of pregnancy; providing criminal
93 penalties; providing enhanced criminal penalties if
94 the serious bodily injury results in death; requiring
95 physicians and personnel at a medical facility to
96 provide certain women and minors who have been treated
97 by the facility with information regarding adoption
98 and a statewide list of attorneys available to provide
99 volunteer legal services for adoption; providing
100 rulemaking authority to the Agency for Health Care
101 Administration and the Department of Health; providing
102 that rulemaking authority is supplemental to s.
103 390.012, F.S.; amending s. 39.001, F.S.; providing
104 legislative intent concerning adoption services for
105 women with unwanted pregnancies; requiring the Office
106 of Adoption and Child Protection to create and manage
107 a statewide list of attorneys providing volunteer
108 adoption services for women with unwanted pregnancies
109 who would have selected abortion, if lawful, rather
110 than adoption; providing that the full amount of all
111 federal moneys received by the state as a result of
112 efforts made by the office to provide legal services
113 are deposited, directed, and budgeted for use by the
114 office; repealing ss. 390.011, 390.0111, 390.01114,
115 390.01116, 390.0112, 390.012, 390.014, 390.015,
116 390.018, and 390.025, F.S., relating to provisions

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117 regulating the termination of pregnancies and
118 definitions applying thereto, the Parental Notice of
119 Abortion Act, public records exemptions for
120 identifying information regarding minors seeking a
121 waiver of notice requirements under such act,
122 reporting requirements for terminated pregnancies, the
123 licensure and operation of abortion clinics, the
124 disposal of fetal remains, the imposition of
125 administrative fines for violations by abortion
126 clinics, and provisions regulating abortion referral
127 or counseling agencies and prescribing penalties for
128 violations by such agencies; repealing ss. 782.30,
129 782.32, 782.34, and 782.36, F.S., relating to the
130 Partial-Birth Abortion Act and the short title,
131 definitions, criminal penalties for the intentional
132 killing of a living fetus while that fetus is
133 partially born, and exceptions to such act; amending
134 s. 27.511, F.S.; conforming language relating to
135 court-appointed counsel for minors under the Parental
136 Notice of Abortion Act to the repeal of s. 390.01114,
137 F.S.; amending ss. 627.64995, 627.6699, 627.66996, and
138 641.31099, F.S.; providing restrictions on use of
139 state and federal funds for state exchanges that
140 provide coverage for induced abortions and
141 terminations of pregnancies under certain conditions;
142 amending ss. 743.065 and 765.113, F.S.; conforming
143 cross-references; providing that if s. 390.01117,
144 F.S., is declared unconstitutional or has its
145 enforcement enjoined, the repeal of s. 390.011, F.S.,

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146 and the amendment of s. 39.001, F.S., are void and of
147 no effect; providing legislative intent; providing
148 that if s. 390.01113, F.S., is declared
149 unconstitutional or has its enforcement enjoined,
150 specified statutory repeals and amendments contained
151 in this act are void and of no effect; providing
152 legislative intent; providing an effective date.
153

154 Be It Enacted by the Legislature of the State of Florida:
155

156 Section 1. This act may be cited as the "Florida for Life
157 Act."

158 Section 2. Section 390.0001, Florida Statutes, is created
159 to read:

160 390.0001 Legislative findings regarding abortion.—

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

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

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

174 (4) The Legislature finds that personal liberty is not a

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175 license to kill an innocent human life under any provision of
176 the United States Constitution.

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

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

190 (7) The Legislature finds that the health exception
191 required of post-viability abortion regulations inadequately
192 protects the health of women seeking post-viability abortions
193 and impedes the state's protection of viable fetal life.

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

197 (9) The Legislature urges the United States Supreme Court
198 to overturn *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned*
199 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833
200 (1992).

201 Section 3. Section 390.01113, Florida Statutes, is created
202 to read:

203 390.01113 Abortion unlawful; termination of pregnancies;

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204 circumstances authorized.—

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

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

213 (b) "Medical emergency" means a condition that, on the
214 basis of a physician's good faith clinical judgment, so
215 complicates the medical condition of a patient as to necessitate
216 the immediate termination of her pregnancy to avert her death,
217 or for which a delay in the termination of her pregnancy will
218 create serious risk of substantial and irreversible impairment
219 of a major bodily function or unreasonably reduce the likelihood
220 of successful treatment of a life-threatening disease.

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

223 (d) "Physician" means a physician licensed under chapter
224 458 or chapter 459 or a physician practicing medicine or
225 osteopathic medicine in the employment of the United States.

226 (e) "Termination of pregnancy" means the termination of a
227 human pregnancy under circumstances not prohibited by this
228 section.

229 (f) "Viability" means that stage of fetal development when,
230 in the judgment of a physician based on the particular facts of
231 the case before him or her and in light of the most advanced
232 medical technology and information available, there is a

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233 reasonable probability of sustained survival of the unborn child
234 outside his or her mother's womb with or without artificial
235 support.

236 (2) INDUCED ABORTION PROHIBITED.—

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

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

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

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

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

260 (a) Two physicians certify in writing to the fact that, to
261 a reasonable degree of medical certainty, the termination of

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262 pregnancy is necessary to prevent the death of the patient;

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

268 (c) A physician certifies in writing that a medical
269 emergency existed and another physician was not available for
270 consultation before the time necessary to perform the
271 termination of pregnancy. The physician's written certification
272 must clearly describe the medical emergency.

273 (5) PERFORMANCE BY PHYSICIAN REQUIRED.—A termination of
274 pregnancy may not, at any time, be performed by a person who is
275 not a physician.

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

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

289 1. The nature and risks of undergoing or not undergoing the
290 proposed procedure that a reasonable patient similarly situated

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291 may consider relevant to making an informed decision of whether
292 to terminate a pregnancy.

293 2. The medical risks to the patient and fetus of carrying
294 the pregnancy to term.

295 (b) In the event a medical emergency exists and a physician
296 cannot comply with the requirements for informed consent, a
297 physician may terminate a pregnancy if he or she has obtained at
298 least one corroborative medical opinion attesting to the medical
299 necessity for emergency medical procedures and to the fact that,
300 to a reasonable degree of medical certainty, the continuation of
301 the pregnancy would threaten the life of the patient. In the
302 event that a second physician is not available for a
303 corroborating opinion, the physician may proceed but must
304 document reasons for the medical necessity in the patient's
305 medical records.

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

312 (7) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.-

313 (a) If a termination of pregnancy is performed while the
314 patient's fetus is viable, the person who performs or induces
315 the termination of pregnancy may not fail to use that degree of
316 professional skill, care, and diligence to preserve the life and
317 health of the fetus that such person would be required to
318 exercise in order to preserve the life and health of a fetus
319 intended to be born and not aborted. Notwithstanding this

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320 subsection, the patient's life is an overriding and superior
321 consideration to the concern for the life of the fetus, and the
322 patient's health is an overriding and superior consideration to
323 the concern for the health of the fetus, when such life or
324 health concerns are in conflict. For purposes of this
325 subsection, health considerations refer to medical judgment
326 exercised in light of factors exclusively regarding the physical
327 well-being of the patient.

328 (b) Any physician who, once the matter of the viability or
329 nonviability of the fetus is determined within a reasonable
330 degree of medical probability, knowingly and willfully
331 misrepresents the gestational age or stage of fetal development
332 of a viable fetus in an entry into any medical record and who
333 fails to use the standard of care required under paragraph (a)
334 on any fetus determined to be viable commits a felony of the
335 first degree, punishable as provided in s. 775.082, s. 775.083,
336 or s. 775.084.

337 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—A
338 person may not use any live fetus or live, premature infant for
339 any type of scientific, research, laboratory, or other kind of
340 experimentation before or after any termination of pregnancy
341 procedure except as necessary to protect or preserve the life
342 and health of such fetus or premature infant.

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

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349 775.083.

350 (10) EXCLUSION FROM APPLICATION.—This section does not
351 apply to the performance of a procedure that terminates a
352 pregnancy in order to deliver a live child or to remove a dead
353 or dying fetus whose demise was not the product of a termination
354 of pregnancy or an induced abortion from the patient's body.

355 (11) ADOPTION ALTERNATIVE INFORMATION.—Any physician or
356 authorized personnel of a medical facility who learns that a
357 pregnant woman or minor treated at the facility wishes to obtain
358 an induced abortion, or that a patient has had a termination of
359 pregnancy where the fetus survived, shall provide the woman or
360 minor with information concerning the availability of adoption
361 for her unwanted child. Compliance with this subsection may be
362 accomplished by providing the woman with the address and
363 telephone number of the Office of Adoption and Child Protection
364 within the Executive Office of the Governor and informing her of
365 the existence of the statewide list of attorneys available to
366 provide volunteer legal services for adoption maintained by that
367 office.

368 (12) PENALTIES FOR CERTAIN VIOLATIONS.—Violation of
369 subsection (4), subsection (7), or subsection (8) by a physician
370 constitutes grounds for disciplinary action under s. 458.331 or
371 s. 459.015.

372 (13) RULEMAKING AUTHORITY.—

373 (a) Except for subsection (9), the Agency for Health Care
374 Administration may adopt rules pursuant to ss. 120.536(1) and
375 120.54 to implement the provisions of this section. These rules
376 shall be for the purpose of protecting the health and safety of
377 women and unborn human life and for the purpose of securing

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378 compliance with the requirements of this section and to
379 facilitate the enforcement of sanctions for those violations to
380 which administrative penalties apply.

381 (b) The Department of Health may adopt rules pursuant to
382 ss. 120.536(1) and 120.54 to implement the provisions of
383 subsection (9).

384 Section 4. Section 390.01117, Florida Statutes, is created
385 to read:

386 390.01117 Termination of pregnancies.—

387 (1) APPLICATION.—This section is superseded by s. 390.01113
388 and shall become effective only if s. 390.01113 is declared
389 unconstitutional or has its enforcement enjoined. In the event
390 this section becomes effective, it shall supersede s. 390.0111.

391 (2) DEFINITIONS.—As used in this section and elsewhere in
392 this chapter, the term:

393 (a) "Abortion" means the termination of human pregnancy
394 with an intention other than to produce a live birth or to
395 remove a fetus that died of natural causes.

396 (b) "Abortion clinic" or "clinic" means any facility or
397 structure in which abortions are performed. The term does not
398 include:

399 1. A hospital; or

400 2. A physician's office, if the office is not used
401 primarily for the performance of abortions.

402 (c) "Agency" means the Agency for Health Care
403 Administration.

404 (d) "Department" means the Department of Health.

405 (e) "Hospital" means a facility as defined in s.

406 395.002(12) and licensed under chapter 395 and part II of

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407 chapter 408.

408 (f) "Patient" means the woman or minor upon whom an
409 abortion or termination of pregnancy is performed or induced.

410 (g) "Physician" means a physician licensed under chapter
411 458 or chapter 459 or a physician practicing medicine or
412 osteopathic medicine in the employment of the United States.

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

420 (3) TERMINATION AFTER VIABILITY PROHIBITED; EXCEPTION.—A
421 termination of pregnancy may not be performed on any human being
422 when it is determined, in accordance with subsection (4), that
423 the fetus is viable unless:

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

428 (b) Two physicians certify in writing to the fact that, to
429 a reasonable degree of medical certainty, the termination of
430 pregnancy is necessary because to continue the pregnancy would
431 unreasonably reduce the likelihood of successful treatment of a
432 life-threatening disease of the patient; or

433 (c) The physician certifies in writing to the medical
434 necessity for legitimate emergency medical procedures for the
435 termination of pregnancy and another physician is not available

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436 for consultation. The physician's written certification must
437 clearly describe the medical emergency.

438 (4) DETERMINATION OF VIABILITY.—A termination of pregnancy
439 may not be induced or performed on any patient who is in the
440 22nd week of pregnancy or later without first obtaining an
441 ultrasound from a physician to determine the stage of fetal
442 development. The physician shall estimate as accurately as
443 possible the stage of fetal development and shall indicate on
444 the patient's medical records the gestational age, length and
445 weight, and lung maturity of the fetus. The physician shall also
446 indicate on the patient's medical records whether, within a
447 reasonable degree of medical probability, the fetus is viable.
448 Due to the potential of an inherent conflict of interest, the
449 determination of viability and the performance of the ultrasound
450 required under this subsection may not be performed by a
451 physician who provides reproductive health services at an
452 abortion clinic.

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

454 (a) A termination of pregnancy involving a viable fetus,
455 when not prohibited in accordance with subsection (3), must be
456 performed in a hospital or other medical facility capable of
457 providing all necessary lifesaving or life-sustaining medical
458 services to the viable fetus.

459 (b) If a termination of pregnancy is performed while the
460 patient's fetus is viable, the person who performs or induces
461 the termination of pregnancy may not fail to use that degree of
462 professional skill, care, and diligence to preserve the life and
463 health of the fetus which such person would be required to
464 exercise in order to preserve the life and health of any fetus

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465 intended to be born and not aborted. Notwithstanding this
466 subsection, the patient's life is an overriding and superior
467 consideration to the concern for the life of the fetus, and the
468 patient's health is an overriding and superior consideration to
469 the concern for the health of the fetus, when such life or
470 health concerns are in conflict. For purposes of this
471 subsection, health considerations refer to medical judgment
472 exercised in light of factors exclusively regarding the physical
473 well-being of the patient. Violation of this subsection by a
474 physician constitutes grounds for disciplinary action under s.
475 458.331 or s. 459.015.

476 (c) Any physician who, once the matter of the viability or
477 nonviability of the fetus is determined within a reasonable
478 degree of medical probability, knowingly and willfully
479 misrepresents the gestational age or stage of fetal development
480 of a viable fetus in an entry into any medical record and who
481 fails to use the standard of care required under paragraph (b)
482 on any fetus determined to be viable commits a felony of the
483 first degree, punishable as provided in s. 775.082, s. 775.083,
484 or s. 775.084.

485 (6) PERFORMANCE BY PHYSICIAN REQUIRED.—A termination of
486 pregnancy may not, at any time, be performed by a person who is
487 not a physician.

488 (7) CONSENTS REQUIRED.—A termination of pregnancy may not
489 be performed or induced except with the voluntary and informed
490 written consent of the patient or, in the case of a mentally
491 incompetent patient, the voluntary and informed written consent
492 of her court-appointed guardian or, in the case of a pregnant
493 minor, notwithstanding s. 743.065, the voluntary informed

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494 written consent of the minor's parent or guardian.

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

497 1. The physician who is to perform the procedure or the
498 referring physician has personally informed the patient, or the
499 court-appointed guardian if the patient is mentally incompetent
500 or a parent or guardian in the case of a minor patient, of:

501 a. The nature and risks of undergoing or not undergoing the
502 proposed procedure that a reasonable patient similarly situated
503 may consider relevant to making an informed decision of whether
504 to terminate a pregnancy.

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

507 c. The medical risks to the patient and fetus of carrying
508 the pregnancy to term.

509 d. All other factors, physical, emotional, psychological,
510 and familial, relevant to the short-term and long-term well-
511 being of the patient, including emotional and psychological
512 impact relating to the loss of the life of a child.

513 2. Printed materials prepared and provided by the
514 department have been provided to the patient, if she chooses to
515 view these materials, including:

516 a. A description of the fetus.

517 b. A list of agencies that offer alternatives to
518 terminating the pregnancy.

519 c. Detailed information on the availability of medical
520 assistance benefits for prenatal care, childbirth, and neonatal
521 care.

522 3. The person required to give consent under this

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523 subsection acknowledges in writing, before the termination of
524 pregnancy, that the information required to be provided under
525 this subsection has been provided.

526 (b) In the event a medical emergency exists and a physician
527 cannot comply with the requirements for informed consent, a
528 physician may terminate a pregnancy if he or she has obtained at
529 least one corroborative medical opinion attesting to the medical
530 necessity for emergency medical procedures and to the fact that,
531 to a reasonable degree of medical certainty, the continuation of
532 the pregnancy would threaten the life of the patient. In the
533 event that a second physician is not available for a
534 corroborating opinion, the physician may proceed but must
535 document reasons for the medical necessity in the patient's
536 medical records.

537 (c) Violation of this subsection by a physician constitutes
538 grounds for disciplinary action under s. 458.331 or s. 459.015.
539 Substantial compliance or reasonable belief that complying with
540 the requirements of informed consent would threaten the life or
541 health of the patient may be raised as a defense to any action
542 brought under this subsection.

543 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—A
544 person may not use any live fetus or live, premature infant for
545 any type of scientific, research, laboratory, or other kind of
546 experimentation before or after any termination of pregnancy
547 procedure except as necessary to protect or preserve the life
548 and health of such fetus or premature infant. Violation of this
549 subsection by a physician constitutes grounds for disciplinary
550 action under s. 458.331 or s. 459.015.

551 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a

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552 sanitary and appropriate manner and in accordance with standard
553 health practices, as provided by rule of the Department of
554 Health. A person who fails to dispose of fetal remains in
555 accordance with department rules commits a misdemeanor of the
556 first degree, punishable as provided in s. 775.082 or s.
557 775.083.

558 (10) REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—This
559 section does not require any hospital or person to participate
560 in the termination of a pregnancy, and any hospital or person is
561 not liable for such refusal. A person who is a member of, or
562 associated with, the staff of a hospital, or any employee of a
563 hospital or physician in which or by whom the termination of a
564 pregnancy is authorized or performed, who states an objection to
565 such procedure may not be required to participate in the
566 procedure which will result in the termination of pregnancy. The
567 refusal of any such person or employee to participate does not
568 form the basis for any disciplinary or other recriminatory
569 action against such person.

570 (11) EXCLUSION FROM APPLICATION.—This section does not
571 apply to the performance of a procedure that terminates a
572 pregnancy in order to deliver a live child or to remove a dead
573 or dying fetus whose demise was not the product of a termination
574 of pregnancy or an abortion, from the patient's body.

575 (12) PENALTIES FOR VIOLATION.—

576 (a) Any person who willfully induces, performs, or assists
577 in a termination of pregnancy procedure on another person in
578 violation of the requirements of subsection (4), paragraph
579 (5) (a), or subsection (6) commits a felony of the second degree,
580 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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581 (b) Any person who willfully induces, performs, or assists
582 in a termination of pregnancy procedure on another person in
583 violation of subsection (3) commits a felony of the first
584 degree, punishable as provided in s. 775.082, s. 775.083, or s.
585 775.084.

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

592 (d) Any person who induces, performs, or assists in a
593 termination of pregnancy procedure on another person in
594 violation of the provisions of this section which results in the
595 death of the person commits a life felony, punishable as
596 provided in s. 775.082, s. 775.083, or s. 775.084.

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

608 (14) RULEMAKING AUTHORITY.—

609 (a) Except for subsection (9), the Agency for Health Care

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610 Administration may adopt rules pursuant to ss. 120.536(1) and
611 120.54 to implement the provisions of this section. These rules
612 shall be for the purpose of protecting the health and safety of
613 women and unborn human life. These rules are also for the
614 purpose of securing compliance with the requirements of this
615 section and to facilitate the enforcement of sanctions for those
616 violations to which administrative penalties apply.

617 (b) The Department of Health may adopt rules pursuant to
618 ss. 120.536(1) and 120.54 to implement the provisions of
619 subsection (9).

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

622 Section 5. Subsection (7) of section 39.001, Florida
623 Statutes, is amended, and paragraph (d) is added to subsection
624 (8) of that section, to read:

625 39.001 Purposes and intent; personnel standards and
626 screening.—

627 (7) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
628 ABANDONMENT, AND NEGLECT OF CHILDREN; ADOPTION SERVICES FOR
629 WOMEN WITH UNWANTED PREGNANCIES.—The incidence of known child
630 abuse, abandonment, and neglect has increased rapidly in recent
631 over the past 5 years. The impact that abuse, abandonment, or
632 neglect has on the victimized child, siblings, family structure,
633 and inevitably on all citizens of the state has caused the
634 Legislature to determine that the prevention of child abuse,
635 abandonment, and neglect shall be a priority of this state. In
636 addition, to provide assistance for women or minors with
637 unwanted pregnancies who would have selected abortion, if lawful
638 in this state, rather than adoption as an alternative for their

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639 unborn child, the Legislature has determined to offer such women
640 or minors volunteer legal services to accomplish an appropriate
641 adoptive placement for such newborn children. To further these
642 ends ~~this end~~, it is the intent of the Legislature that an
643 Office of Adoption and Child Protection be established.

644 (8) OFFICE OF ADOPTION AND CHILD PROTECTION.—

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

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

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

657 Section 6. Sections 390.011, 390.0111, 390.01114,
658 390.01116, 390.0112, 390.012, 390.014, 390.015, 390.018, and
659 390.025, Florida Statutes, are repealed.

660 Section 7. Sections 782.30, 782.32, 782.34, and 782.36,
661 Florida Statutes, are repealed.

662 Section 8. Paragraph (a) of subsection (6) of section
663 27.511, Florida Statutes, is amended to read:

664 27.511 Offices of criminal conflict and civil regional
665 counsel; legislative intent; qualifications; appointment;
666 duties.—

667 (6) (a) The office of criminal conflict and civil regional

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668 counsel has primary responsibility for representing persons
669 entitled to court-appointed counsel under the Federal or State
670 Constitution or as authorized by general law in civil
671 proceedings, including, but not limited to, proceedings under s.
672 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and
673 proceedings to terminate parental rights under chapter 63.
674 ~~Private court-appointed counsel eligible under s. 27.40 have~~
675 ~~primary responsibility for representing minors who request~~
676 ~~counsel under s. 390.01114, the Parental Notice of Abortion Act;~~
677 ~~however, the office of criminal conflict and civil regional~~
678 ~~counsel may represent a minor under that section if the court~~
679 ~~finds that no private court-appointed attorney is available.~~

680 Section 9. Subsection (1) of section 627.64995, Florida
681 Statutes, is amended to read:

682 627.64995 Restrictions on use of state and federal funds
683 for state exchanges.—

684 (1) A health insurance policy under which coverage is
685 purchased in whole or in part with any state or federal funds
686 through an exchange created pursuant to the federal Patient
687 Protection and Affordable Care Act, Pub. L. No. 111-148, may not
688 provide coverage for an induced abortion as defined in and
689 prohibited under s. 390.01113 or for a termination of pregnancy
690 in violation of s. 390.01113(4) ~~s. 390.011(1), except if the~~
691 ~~pregnancy is the result of an act of rape or incest, or in the~~
692 ~~case where a woman suffers from a physical disorder, physical~~
693 ~~injury, or physical illness, including a life-endangering~~
694 ~~physical condition caused by or arising from the pregnancy~~
695 ~~itself, which would, as certified by a physician, place the~~
696 ~~woman in danger of death unless an abortion is performed.~~

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

700 Section 10. Paragraph (a) of subsection (17) of section
701 627.6699, Florida Statutes, is amended to read:

702 627.6699 Employee Health Care Access Act.—

703 (17) RESTRICTIONS ON COVERAGE.—

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

719 Section 11. Subsection (1) of section 627.66996, Florida
720 Statutes, is amended to read:

721 627.66996 Restrictions on use of state and federal funds
722 for state exchanges.—

723 (1) A group, franchise, or blanket health insurance policy
724 under which coverage is purchased in whole or in part with any
725 state or federal funds through an exchange created pursuant to

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

740 Section 12. Subsection (1) of section 641.31099, Florida
741 Statutes, is amended to read:

742 641.31099 Restrictions on use of state and federal funds
743 for state exchanges.—

744 (1) A health maintenance contract under which coverage is
745 purchased in whole or in part with any state or federal funds
746 through an exchange created pursuant to the federal Patient
747 Protection and Affordable Care Act, Pub. L. No. 111-148, may not
748 provide coverage for an induced abortion as defined in and
749 prohibited under s. 390.01113 or for a termination of pregnancy
750 in violation of s. 390.01113(4) ~~s. 390.011(1), except if the~~
751 ~~pregnancy is the result of an act of rape or incest, or in the~~
752 ~~case where a woman suffers from a physical disorder, physical~~
753 ~~injury, or physical illness, including a life-endangering~~
754 ~~physical condition caused by or arising from the pregnancy~~

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755 ~~itself, which would, as certified by a physician, place the~~
756 ~~woman in danger of death unless an abortion is performed.~~

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

760 Section 13. Subsection (3) of section 743.065, Florida
761 Statutes, is amended to read:

762 743.065 Unwed pregnant minor or minor mother; consent to
763 medical services for minor or minor's child valid.—

764 ~~(3) Nothing in this act shall affect the provisions of s.~~
765 ~~390.0111.~~

766 Section 14. Subsection (2) of section 765.113, Florida
767 Statutes, is amended to read:

768 765.113 Restrictions on providing consent.—Unless the
769 principal expressly delegates such authority to the surrogate in
770 writing, or a surrogate or proxy has sought and received court
771 approval pursuant to rule 5.900 of the Florida Probate Rules, a
772 surrogate or proxy may not provide consent for:

773 (2) Withholding or withdrawing life-prolonging procedures
774 from a pregnant patient before ~~prior to~~ viability as defined in
775 s. 390.01113 ~~390.0111(4)~~.

776 Section 15. If section 390.01117, Florida Statutes, as
777 created by this act, is declared unconstitutional or has its
778 enforcement permanently enjoined, the repeal of section 390.011,
779 Florida Statutes, and the amendment of section 39.001, Florida
780 Statutes, by this act, shall be deemed void and of no effect, it
781 being the legislative intent that these provisions would not
782 have been enacted had section 390.01113, Florida Statutes, or
783 section 390.01117, Florida Statutes, not been enacted as well.

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784 Section 16. If section 390.01113, Florida Statutes, as
785 created by this act, is declared unconstitutional or has its
786 enforcement permanently enjoined, the statutory repeals and
787 amendments contained in sections 6 through 14 of this act shall
788 be deemed void and of no effect, and the text of any amended
789 provisions shall revert to that in existence on the day before
790 the effective date of this act, except that any amendments to
791 such text enacted other than by this act shall be preserved and
792 continue to operate, it being the legislative intent that these
793 provisions would not have been enacted had section 390.01113,
794 Florida Statutes, not been enacted as well.

795 Section 17. This act shall take effect July 1, 2013.