

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
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
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;
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
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.,
 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
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.

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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
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
230 when, in the judgment of a physician based on the particular
231 facts of the case before him or her and in light of the most
232 advanced medical technology and information available, there is
233 a reasonable probability of sustained survival of the unborn
234 child outside his or her mother's womb with or without
235 artificial 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
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

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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
284 a 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
290 the proposed procedure that a reasonable patient similarly
291 situated may consider relevant to making an informed decision of
292 whether 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
296 physician cannot comply with the requirements for informed
297 consent, a physician may terminate a pregnancy if he or she has
298 obtained at least one corroborative medical opinion attesting to
299 the medical necessity for emergency medical procedures and to
300 the fact that, to a reasonable degree of medical certainty, the
301 continuation of the pregnancy would threaten the life of the
302 patient. In the event that a second physician is not available
303 for a 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
307 constitutes grounds for disciplinary action under s. 458.331 or
308 s. 459.015. Substantial compliance or reasonable belief that
309 complying with the requirements of informed consent would
310 threaten the life of the patient may be raised as a defense to
311 any action brought for 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
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 health
324 concerns are in conflict. For purposes of this subsection,
325 health considerations refer to medical judgment exercised in
326 light of factors exclusively regarding the physical well-being
327 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)

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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.
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

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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 inform 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
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.
388 390.01113 and shall become effective only if s. 390.01113 is
389 declared unconstitutional or has its enforcement enjoined. In

390 the event this section becomes effective, it shall supersede s.
391 390.0111.

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

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

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

400 1. A hospital; or

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

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

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

406 (e) "Hospital" means a facility as defined in s.
407 395.002(12) and licensed under chapter 395 and part II of
408 chapter 408.

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

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

414 (h) "Viability" means that stage of fetal development
415 when, in the judgment of the physician based on the particular
416 facts of the case before him or her and in light of the most
417 advanced medical technology and information available, there is

418 a reasonable probability of sustained survival of the unborn
419 child outside his or her mother's womb with or without
420 artificial support.

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

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

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

434 (c) The physician certifies in writing to the medical
435 necessity for legitimate emergency medical procedures for the
436 termination of pregnancy and another physician is not available
437 for consultation. The physician's written certification must
438 clearly describe the medical emergency.

439 (4) DETERMINATION OF VIABILITY.—A termination of pregnancy
440 may not be induced or performed on any patient who is in the
441 22nd week of pregnancy or later without first obtaining an
442 ultrasound from a physician to determine the stage of fetal
443 development. The physician shall estimate as accurately as
444 possible the stage of fetal development and shall indicate on
445 the patient's medical records the gestational age, length and

446 weight, and lung maturity of the fetus. The physician shall also
447 indicate on the patient's medical records whether, within a
448 reasonable degree of medical probability, the fetus is viable.
449 Due to the potential of an inherent conflict of interest, the
450 determination of viability and the performance of the ultrasound
451 required under this subsection may not be performed by a
452 physician who provides reproductive health services at an
453 abortion clinic.

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

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

460 (b) If a termination of pregnancy is performed while the
461 patient's fetus is viable, the person who performs or induces
462 the termination of pregnancy may not fail to use that degree of
463 professional skill, care, and diligence to preserve the life and
464 health of the fetus which such person would be required to
465 exercise in order to preserve the life and health of any fetus
466 intended to be born and not aborted. Notwithstanding this
467 subsection, the patient's life is an overriding and superior
468 consideration to the concern for the life of the fetus, and the
469 patient's health is an overriding and superior consideration to
470 the concern for the health of the fetus when such life or health
471 concerns are in conflict. For purposes of this subsection,
472 health considerations refer to medical judgment exercised in
473 light of factors exclusively regarding the physical well-being

474 of the patient. Violation of this subsection by a physician
475 constitutes grounds for disciplinary action under s. 458.331 or
476 s. 459.015.

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

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

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

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

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

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

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

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

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

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

517 a. A description of the fetus.

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

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

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

527 (b) In the event a medical emergency exists and a
528 physician cannot comply with the requirements for informed
529 consent, a physician may terminate a pregnancy if he or she has

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530 obtained at least one corroborative medical opinion attesting to
531 the medical necessity for emergency medical procedures and to
532 the fact that, to a reasonable degree of medical certainty, the
533 continuation of the pregnancy would threaten the life of the
534 patient. In the event that a second physician is not available
535 for a corroborating opinion, the physician may proceed but must
536 document reasons for the medical necessity in the patient's
537 medical records.

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

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

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

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558 | 775.083.

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

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

576 | (12) PENALTIES FOR VIOLATION.—

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

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

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586 775.084.

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

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

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

609 (14) RULEMAKING AUTHORITY.—

610 (a) Except for subsection (9), the Agency for Health Care
611 Administration may adopt rules pursuant to ss. 120.536(1) and
612 120.54 to implement the provisions of this section. These rules
613 shall be for the purpose of protecting the health and safety of

614 women and unborn human life. These rules are also for the
 615 purpose of securing compliance with the requirements of this
 616 section and to facilitate the enforcement of sanctions for those
 617 violations to which administrative penalties apply.

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

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

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

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

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

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642 adoptive placement for such newborn children. To further these
643 ends ~~this end~~, it is the intent of the Legislature that an
644 Office of Adoption and Child Protection be established.

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

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

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

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

658 Section 6. Sections 390.011, 390.0111, 390.01114,
659 390.01116, 390.0112, 390.012, 390.014, 390.015, 390.018, and
660 390.025, Florida Statutes, are repealed.

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

663 Section 8. Paragraph (a) of subsection (6) of section
664 27.511, Florida Statutes, is amended to read:

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

668 (6) (a) The office of criminal conflict and civil regional
669 counsel has primary responsibility for representing persons

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

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

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

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

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

701 Section 10. Paragraph (a) of subsection (17) of section
702 627.6699, Florida Statutes, is amended to read:

703 627.6699 Employee Health Care Access Act.—

704 (17) RESTRICTIONS ON COVERAGE.—

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

718 Coverage is deemed to be purchased with state or federal funds
719 if any tax credit or cost-sharing credit is applied toward the
720 plan.

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

723 627.66996 Restrictions on use of state and federal funds
724 for state exchanges.—

725 (1) A group, franchise, or blanket health insurance policy

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

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

744 641.31099 Restrictions on use of state and federal funds
745 for state exchanges.—

746 (1) A health maintenance contract under which coverage is
747 purchased in whole or in part with any state or federal funds
748 through an exchange created pursuant to the federal Patient
749 Protection and Affordable Care Act, Pub. L. No. 111-148, may not
750 provide coverage for an induced abortion as defined in and
751 prohibited under s. 390.01113 or for a termination of pregnancy
752 in violation of s. 390.01113(4) s. ~~390.011(1), except if the~~
753 ~~pregnancy is the result of an act of rape or incest, or in the~~

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754 ~~ease where a woman suffers from a physical disorder, physical~~
755 ~~injury, or physical illness, including a life-endangering~~
756 ~~physical condition caused by or arising from the pregnancy~~
757 ~~itself, which would, as certified by a physician, place the~~
758 ~~woman in danger of death unless an abortion is performed.~~

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

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

764 743.065 Unwed pregnant minor or minor mother; consent to
765 medical services for minor or minor's child valid.—

766 ~~(3) Nothing in this act shall affect the provisions of s.~~
767 ~~390.0111.~~

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

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

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

778 Section 15. If section 390.01117, Florida Statutes, as
779 created by this act, is declared unconstitutional or has its
780 enforcement permanently enjoined, the repeal of section 390.011,
781 Florida Statutes, and the amendment of section 39.001, Florida

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782 Statutes, by this act, shall be deemed void and of no effect, it
783 being the legislative intent that these provisions would not
784 have been enacted had section 390.01113, Florida Statutes, or
785 section 390.01117, Florida Statutes, not been enacted as well.

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

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