

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; amending s.  
5           390.011, F.S.; revising and providing definitions;  
6           amending s. 390.0111, F.S.; prohibiting inducing an  
7           abortion or performing, attempting to perform, or  
8           assisting in an induced abortion; providing criminal  
9           penalties; providing criminal penalties for inflicting  
10          serious bodily injury on a person in the course of  
11          performing an abortion; providing criminal penalties;  
12          providing enhanced criminal penalties if the serious  
13          bodily injury results in death; prohibiting operation  
14          of any facility, business, or service for the purpose  
15          of providing induced abortion services; providing  
16          criminal penalties; prohibiting termination of a  
17          pregnancy unless specified conditions are met;  
18          requiring voluntary, informed consent for a  
19          termination of pregnancy; prohibiting fetal  
20          experimentation; providing an exception; providing  
21          enhanced criminal penalties for failure to dispose of  
22          fetal remains in accordance with certain rules;  
23          excluding specified procedures from applicability of  
24          section; deleting provisions relating to partial-birth  
25          abortion relief; requiring physicians and personnel at  
26          a medical facility to provide certain women and minors  
27          who have been treated by the facility with information  
28          regarding adoption and access to a statewide list of  
29          attorneys available to provide volunteer legal  
30          services for adoption; authorizing the Agency for  
31          Health Care Administration and the Department of  
32          Health to adopt rules; amending s. 390.01112, F.S.;

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33 providing grounds for disciplinary action against a  
34 physician performing a termination of pregnancy during  
35 viability under certain circumstances; specifying  
36 where a termination of pregnancy during viability may  
37 be performed; prohibiting misrepresentation of the  
38 gestational age or developmental stage of a viable  
39 fetus in any medical record or failure to use the  
40 prescribed standard of care on a viable fetus by a  
41 physician; providing criminal penalties; amending s.  
42 39.001, F.S.; providing legislative intent concerning  
43 adoption services for women and minors with unwanted  
44 pregnancies; requiring the Office of Adoption and  
45 Child Protection to create and manage a statewide list  
46 of attorneys providing volunteer adoption services for  
47 women and minors with unwanted pregnancies who would  
48 have selected abortion, if lawful, rather than  
49 adoption; providing that the full amount of all  
50 federal moneys received by the state as a result of  
51 efforts made by the office to provide legal and other  
52 services for adoption are deposited, directed, and  
53 budgeted for use by the office; repealing ss.  
54 390.01114, 390.01116, 390.0112, 390.012, 390.014,  
55 390.015, 390.018, and 390.025, F.S., relating to the  
56 Parental Notice of Abortion Act, public records  
57 exemptions for identifying information regarding  
58 minors seeking a waiver of notice requirements under  
59 such act, reporting requirements for terminated  
60 pregnancies, the powers of agency, rules, and disposal  
61 of fetal remains, licenses and fees, application for

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62 licensure, the imposition of administrative fines for  
63 violations by abortion clinics, and provisions  
64 regulating abortion referral or counseling agencies  
65 and prescribing penalties for violations by such  
66 agencies; repealing ss. 782.30, 782.32, 782.34, and  
67 782.36, F.S., relating to the Partial-Birth Abortion  
68 Act and the short title, definitions, criminal  
69 penalties for the intentional killing of a living  
70 fetus while that fetus is partially born, and  
71 exceptions to such act; amending s. 27.511, F.S.;  
72 conforming provisions to changes made by the act;  
73 amending ss. 627.64995, 627.6699, 627.66996, and  
74 641.31099, F.S.; providing restrictions on use of  
75 state and federal funds for state exchanges that  
76 provide coverage for induced abortions and  
77 terminations of pregnancies under certain conditions;  
78 amending ss. 743.065, 743.067, and 765.113, F.S.;  
79 conforming cross-references; providing an effective  
80 date.

81  
82 Be It Enacted by the Legislature of the State of Florida:

83  
84 Section 1. This act may be cited as the "Florida for Life  
85 Act."

86 Section 2. Section 390.0001, Florida Statutes, is created  
87 to read:

88 390.0001 Legislative findings regarding abortion.-

89 (1) The Legislature acknowledges that all persons are  
90 endowed by their Creator with certain unalienable rights and

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91 that first among these is their right to life.

92 (2) The Legislature finds that all human life comes from  
93 the Creator, has an inherent value that cannot be quantified by  
94 man, and begins at the earliest biological development of a  
95 fertilized human egg.

96 (3) The Legislature finds that the United States  
97 Constitution expresses no qualification for, or limitation on,  
98 the protection of human life by laws passed by state  
99 legislatures which regard human life as the most fundamental  
100 gift from God and deserving of paramount importance among all  
101 other unalienable rights expressed or implied in the United  
102 States Constitution.

103 (4) The Legislature finds that personal liberty is not a  
104 license to kill or otherwise destroy any form of human life  
105 under any provision of the United States Constitution.

106 (5) The Legislature finds that once human life begins,  
107 there is a compelling state interest in protecting its  
108 development from that moment through birth. Any act of a person  
109 detrimental to unborn human life, when not necessary in defense  
110 of the life of the mother bearing such unborn human life, which  
111 unnaturally terminates that unborn human life is a deprivation  
112 of that unborn human's unalienable right to life.

113 (6) The Legislature finds that the establishment of  
114 viability as the point at which the state may restrict  
115 abortions, as well as the "undue burden" standard of *Planned*  
116 *Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833  
117 (1992), is arbitrary and provides inadequate guidance for this  
118 state to enact meaningful protections for unborn human life.

119 (7) The Legislature finds that the health exception

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120 required of post-viability abortion regulations inadequately  
 121 protects the health of women and minors seeking post-viability  
 122 abortions and impedes the state's protection of viable unborn  
 123 human life.

124 (8) The Legislature finds that the people of Florida seek  
 125 to protect all human life and prohibit unnecessary abortion  
 126 through the exercise of their right to self-government.

127 (9) The Legislature urges the United States Supreme Court  
 128 to overturn *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned*  
 129 *Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833  
 130 (1992).

131 Section 3. Section 390.011, Florida Statutes, is amended to  
 132 read:

133 390.011 Definitions.—As used in this chapter, the term:

134 (1) "Abortion" means the termination of human pregnancy  
 135 with an intention other than to produce a live birth or to  
 136 remove a ~~dead~~ fetus that has died of natural causes.

137 (2) "Abortion clinic" or "clinic" means any facility,  
 138 location, or structure in which abortions are performed. The  
 139 term does not include:

140 ~~(a) a hospital or medical establishment as defined in~~  
 141 subsection (6); or

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

144 (3) "Agency" means the Agency for Health Care  
 145 Administration.

146 (4) "Born alive" means the complete expulsion or extraction  
 147 from the mother of a human infant, at any stage of development,  
 148 who, after such expulsion or extraction, breathes or has a

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149 beating heart, or definite and voluntary movement of muscles,  
150 regardless of whether the umbilical cord has been cut and  
151 regardless of whether the expulsion or extraction occurs as a  
152 result of natural or induced labor, caesarean section, induced  
153 abortion, or other method.

154 (5) "Department" means the Department of Health.

155 (6) "Hospital" means a medical establishment ~~facility~~ as  
156 defined in s. 395.002(12) and licensed under chapter 395 and  
157 part II of chapter 408.

158 (7) "Human life" means a human person and is the biological  
159 development of the species *Homo sapiens* that begins when a human  
160 egg is fertilized by a human sperm and continues to develop as a  
161 living organism. For the purposes of this chapter, the terms  
162 "human life" and "human person" may be used interchangeably.

163 (8) "Induced abortion" means a medically initiated  
164 termination of a human pregnancy with the intent to kill a  
165 living human organism, zygote, embryo, or fetus. For purposes of  
166 this subsection, the term "medically initiated" means the  
167 ingestion or administration of pharmaceutical abortifacients by  
168 any means, performance of a surgical procedure, or use of any  
169 device or instrument and any combination thereof.

170 (9) "Medical emergency" means a condition that, on the  
171 basis of a physician's good faith clinical judgment, so  
172 complicates the medical condition of a patient as to necessitate  
173 the immediate termination of her pregnancy to avert her death,  
174 or for which a delay in the termination of her pregnancy will  
175 create serious risk of substantial and irreversible impairment  
176 of a major bodily function or unreasonably reduce the likelihood  
177 of successful treatment of a life-threatening disease.

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178        (10)~~(7)~~ "Partial-birth abortion" means a termination of  
179 pregnancy in which the physician performing the termination of  
180 pregnancy partially vaginally delivers a living fetus and then  
181 kills before~~killing~~ the fetus before ~~and~~ completing the  
182 delivery.

183        (11) "Patient" means the woman or minor upon whom an  
184 abortion or termination of pregnancy is to be performed or  
185 induced.

186        (12)~~(8)~~ "Physician" means a physician licensed under  
187 chapter 458 or chapter 459 or a physician practicing medicine or  
188 osteopathic medicine in the employment of the United States who  
189 is attending to the patient.

190        (13) "Pregnancy" means the process by which a human egg is  
191 fertilized by a human sperm and continues to develop.

192        (14)~~(9)~~ "Reasonable medical judgment" means a medical  
193 judgment ~~that would be made by a~~ practicing ~~reasonably prudent~~  
194 physician~~7~~ knowledgeable about the case and the treatment  
195 possibilities with respect to the medical conditions involved.

196        (15)~~(10)~~ "Standard medical measure" means the medical care  
197 that a physician would provide based on the particular facts of  
198 the pregnancy, the information available to the physician, and  
199 the technology reasonably available in a hospital, as defined in  
200 s. 395.002, with an obstetrical department, to preserve the life  
201 and health of the fetus, with or without temporary artificial  
202 life-sustaining support, if the fetus were born at the same  
203 stage of fetal development.

204        (16) "Termination of pregnancy" means the termination of a  
205 human pregnancy under circumstances not prohibited by this  
206 chapter.

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207        (17)~~(11)~~ "Third trimester" means the weeks of pregnancy  
208 after the 24th week of pregnancy.

209        (18)~~(12)~~ "Viable" or "viability" means the stage of fetal  
210 development when, in the judgment of the physician, based on the  
211 particular facts of the case before him or her and in light of  
212 the most advanced medical technology and information available,  
213 there is a reasonable probability of sustained survival of the  
214 unborn human person outside his or her mother's womb with or  
215 without artificial support ~~the life of a fetus is sustainable~~  
216 ~~outside the womb through standard medical measures.~~

217        Section 4. Section 390.0111, Florida Statutes, is amended  
218 to read:

219        390.0111 Abortion unlawful; termination of pregnancies;  
220 circumstances authorized.—

221        (1) INDUCED ABORTION PROHIBITED; PENALTIES.—

222        (a) Induced abortion for any purpose is unlawful, except as  
223 provided in s. 390.01112. Any person who induces an abortion or  
224 performs, attempts to perform, or assists another in the  
225 performance of an induced abortion on another person commits a  
226 felony of the first degree, punishable as provided in s.  
227 775.082, s. 775.083, or s. 775.084.

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

233        (c) Any person who during the course of performing an  
234 induced abortion on another person inflicts serious bodily  
235 injury on the person which results in the death of the person

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236 commits a life felony, punishable as provided in s. 775.082, s.  
237 775.083, or s. 775.084.

238 (2) OPERATING ABORTION CLINICS AND SERVICES PROHIBITED.—A  
239 person or persons who operate any facility, business, or service  
240 from any location within this state for the purpose of providing  
241 induced abortion services commit a felony of the first degree,  
242 punishable by imprisonment for a term of years not exceeding  
243 life, as provided in s. 775.082, s. 775.083, or s. 775.084.

244 (3) ~~(1)~~ TERMINATION OF PREGNANCY IN THIRD TRIMESTER; WHEN  
245 ALLOWED.—A ~~No~~ termination of pregnancy may not shall be  
246 performed on any human being ~~in the third trimester of pregnancy~~  
247 unless one of the following conditions is met:

248 (a) Two physicians certify in writing that, to a reasonable  
249 degree of medical certainty ~~in reasonable medical judgment,~~ the  
250 termination of the pregnancy is necessary to prevent the death  
251 of the patient; ~~save the pregnant woman's life or avert a~~  
252 serious risk of substantial and irreversible physical impairment  
253 of a major bodily function of the pregnant woman other than a  
254 psychological condition.

255 (b) Two physicians certify ~~The physician certifies~~ in  
256 writing that, to a reasonable degree of medical certainty, the  
257 termination of pregnancy is necessary because to continue the  
258 pregnancy would unreasonably reduce the likelihood of successful  
259 treatment of an already life-threatening disease of the patient;  
260 or

261 (c) The attending physician certifies in writing that a  
262 medical emergency existed as described in paragraph (a) or  
263 paragraph (b) and another physician was not available for  
264 consultation before the time necessary to perform the

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265 termination of pregnancy. The physician's written certification  
 266 must clearly describe the details of the medical emergency in  
 267 the patient's medical records.

268  
 269 Violation of this subsection by a physician constitutes grounds  
 270 for disciplinary action under s. 458.331 or s. 459.015 in  
 271 ~~reasonable medical judgment, there is a medical necessity for~~  
 272 ~~legitimate emergency medical procedures for termination of the~~  
 273 ~~pregnancy to save the pregnant woman's life or avert a serious~~  
 274 ~~risk of imminent substantial and irreversible physical~~  
 275 ~~impairment of a major bodily function of the pregnant woman~~  
 276 ~~other than a psychological condition, and another physician is~~  
 277 ~~not available for consultation.~~

278 (4)~~(2)~~ PERFORMANCE BY PHYSICIAN REQUIRED.—A ~~No~~ termination  
 279 of pregnancy may not shall be performed at any time except by a  
 280 physician as defined in s. 390.011.

281 (5)~~(3)~~ CONSENTS REQUIRED.—A termination of pregnancy may  
 282 not be performed or induced except with the voluntary and  
 283 informed written consent of the patient ~~pregnant woman~~ or, in  
 284 the case of a mentally ~~mental~~ incompetent patient, the voluntary  
 285 and informed written consent of her court-appointed guardian or,  
 286 in the case of a minor patient, notwithstanding s. 743.065, the  
 287 voluntary informed written consent of her parent or legal  
 288 guardian.

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

291 1. The physician who is to perform the procedure, or the  
 292 referring physician, has, at a minimum, orally, while physically  
 293 present in the same room, and at least 24 hours before the

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294 procedure, informed the patient, or the court-appointed guardian  
295 if the patient is mentally incompetent or the parent or legal  
296 guardian if the patient is a minor, ~~woman~~ of:

297 a. The nature and risks of undergoing or not undergoing the  
298 proposed procedure that a reasonable patient would consider  
299 material to making a knowing and willful decision of whether to  
300 terminate a pregnancy.

301 b. The probable gestational age of the fetus, verified by  
302 an ultrasound, at the time the termination of pregnancy is to be  
303 performed.

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

309 (II) The person performing the ultrasound must offer the  
310 patient ~~woman~~ the opportunity to view the live ultrasound images  
311 and hear an explanation of them. If the patient ~~woman~~ accepts  
312 the opportunity to view the images and hear the explanation, a  
313 physician or a registered nurse, licensed practical nurse,  
314 advanced registered nurse practitioner, or physician assistant  
315 working in conjunction with the physician must contemporaneously  
316 review and explain the images to the patient ~~woman~~ before the  
317 patient ~~woman~~ gives informed consent to having an abortion  
318 procedure performed.

319 (III) The patient ~~woman~~ has a right to decline to view and  
320 hear the explanation of the live ultrasound images after she is  
321 informed of her right and offered an opportunity to view the  
322 images and hear the explanation. If the patient ~~woman~~ declines,

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323 the patient ~~woman~~ shall complete a form acknowledging that she  
324 was offered an opportunity to view and hear the explanation of  
325 the images but that she declined that opportunity. The form must  
326 also indicate that the patient's ~~woman's~~ decision was not based  
327 on any undue influence from any person to discourage her from  
328 viewing the images or hearing the explanation and that she  
329 declined of her own free will.

330 (IV) Unless requested by the patient ~~woman~~, the person  
331 performing the ultrasound may not offer the opportunity to view  
332 the images and hear the explanation and the explanation may not  
333 be given if, at the time the patient ~~woman~~ schedules or arrives  
334 for her appointment to obtain an abortion, a copy of a  
335 restraining order, police report, medical record, or other court  
336 order or documentation is presented which provides evidence that  
337 the patient ~~woman~~ is obtaining the abortion because the patient  
338 ~~woman~~ is a victim of rape, incest, domestic violence, or human  
339 trafficking or that the patient ~~woman~~ has been diagnosed as  
340 having a condition that, on the basis of a physician's good  
341 faith clinical judgment, would create a serious risk of  
342 substantial and irreversible impairment of a major bodily  
343 function if the patient ~~woman~~ delayed terminating her pregnancy.

344 c. The medical risks to the patient ~~woman~~ and fetus of  
345 carrying the pregnancy to term.

346  
347 The physician may provide the information required in this  
348 subparagraph within 24 hours before the procedure if requested  
349 by the patient ~~woman~~ at the time she schedules or arrives for  
350 her appointment to obtain an abortion and if she presents to the  
351 physician a copy of a restraining order, police report, medical

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352 record, or other court order or documentation evidencing that  
353 she is obtaining the abortion because she is a victim of rape,  
354 incest, domestic violence, or human trafficking.

355 2. Printed materials prepared and provided by the  
356 department have been provided to the patient, or the court-  
357 appointed guardian if the patient is mentally incompetent or the  
358 parent or legal guardian if the patient is a minor pregnant  
359 woman, if she chooses to view these materials, including:

360 a. An accurate estimate of the stage of biological  
361 development, gestational age, length, weight, and viability of  
362 the unborn human person ~~A description of the fetus, including a~~  
363 ~~description of the various stages of development.~~

364 b. A list of entities that offer alternatives to  
365 terminating the pregnancy.

366 c. Detailed information on the availability of medical  
367 assistance benefits for prenatal care, childbirth, and neonatal  
368 care.

369 3. The patient, or the court-appointed guardian if the  
370 patient is mentally incompetent or the parent or legal guardian  
371 if the patient is a minor, has been given, in writing, the  
372 address and telephone number of the Office of Adoption and Child  
373 Protection within the Executive Office of the Governor and  
374 informed of the existence of a statewide list of attorneys  
375 available to provide volunteer legal services for adoption.

376 ~~4.3.~~ The person required to give consent under this  
377 subsection ~~woman~~ acknowledges in writing, before the termination  
378 of pregnancy, that the information required to be provided under  
379 this subsection has been provided.

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381 Nothing in this paragraph is intended to prohibit a physician  
 382 from providing any additional information that ~~which~~ the  
 383 physician deems material to the patient's ~~woman's~~ informed  
 384 decision to terminate her pregnancy.

385 (b) If a medical emergency exists and a physician cannot  
 386 comply with the requirements for informed consent, the attending  
 387 ~~a~~ physician may terminate a pregnancy if he or she has obtained  
 388 at least one physician's corroborative written medical opinion  
 389 attesting to the medical necessity for emergency medical  
 390 procedures and to the fact that to a reasonable degree of  
 391 medical certainty the continuation of the pregnancy would  
 392 threaten the physical life of the patient ~~pregnant woman~~. If a  
 393 second physician is not available for a corroborating written  
 394 opinion before the time necessary to perform the termination of  
 395 pregnancy, the physician may proceed but must ~~shall~~ document all  
 396 reasons for the medical emergency and must clearly describe the  
 397 details of the medical emergency ~~necessity~~ in the patient's  
 398 medical records as described in paragraph (3) (c).

399 (c) Violation of this subsection by a physician constitutes  
 400 grounds for disciplinary action under s. 458.331 or s. 459.015.  
 401 Substantial compliance or reasonable belief that complying with  
 402 the requirements of informed consent would threaten the life ~~or~~  
 403 ~~health~~ of the patient as described in paragraph (3) (a) or would  
 404 unreasonably reduce the successful treatment of an already life-  
 405 threatening disease of the patient as described in paragraph  
 406 (3) (b) may be raised as is a defense to any action brought under  
 407 this subsection ~~paragraph~~.

408 ~~(4) STANDARD OF MEDICAL CARE TO BE USED IN THIRD~~  
 409 ~~TRIMESTER. If a termination of pregnancy is performed in the~~

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410 ~~third trimester, the physician performing the termination of~~  
411 ~~pregnancy must exercise the same degree of professional skill,~~  
412 ~~care, and diligence to preserve the life and health of the fetus~~  
413 ~~which the physician would be required to exercise in order to~~  
414 ~~preserve the life and health of a fetus intended to be born and~~  
415 ~~not aborted. However, if preserving the life and health of the~~  
416 ~~fetus conflicts with preserving the life and health of the~~  
417 ~~pregnant woman, the physician must consider preserving the~~  
418 ~~woman's life and health the overriding and superior concern.~~

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

420 ~~(a) No physician shall knowingly perform a partial-birth~~  
421 ~~abortion.~~

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

425 ~~(c) This subsection shall not apply to a partial-birth~~  
426 ~~abortion that is necessary to save the life of a mother whose~~  
427 ~~life is endangered by a physical disorder, illness, or injury,~~  
428 ~~provided that no other medical procedure would suffice for that~~  
429 ~~purpose.~~

430 ~~(6) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—~~A No  
431 person may not shall use any live fetus or live, premature  
432 infant for any type of scientific, research, laboratory, or  
433 other kind of experimentation either before ~~prior to~~ or  
434 subsequent to any termination of pregnancy procedure except as  
435 necessary to protect or preserve the life and health of such  
436 fetus or premature infant. Violation of this subsection by a  
437 physician constitutes grounds for disciplinary action under s.  
438 458.331 or s. 459.015.

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439 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a  
 440 sanitary and appropriate manner and in accordance with standard  
 441 health practices, as provided by rule of the Department of  
 442 Health. A person who fails ~~Failure~~ to dispose of fetal remains  
 443 in accordance with department rules commits a felony of the  
 444 third degree ~~is a misdemeanor of the second degree~~, punishable  
 445 as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

446 (8) REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—  
 447 Nothing in this section shall require any hospital or any person  
 448 to participate in the termination of a pregnancy, nor shall any  
 449 hospital or any person be liable for such refusal. A ~~No~~ person  
 450 who is a member of, or associated with, the staff of a hospital,  
 451 or ~~nor~~ any employee of a hospital or physician in which or by  
 452 whom the termination of a pregnancy has been authorized or  
 453 performed, who states ~~shall state~~ an objection to such procedure  
 454 on moral or religious grounds is not ~~shall be~~ required to  
 455 participate in the procedure which will result in the  
 456 termination of pregnancy. The refusal of any such person or  
 457 employee to participate does ~~shall~~ not form the basis for any  
 458 disciplinary or other recriminatory action against such person.

459 (9) EXCEPTION.—~~The provisions of~~ This section does ~~shall~~  
 460 not apply to the performance of a procedure which terminates a  
 461 pregnancy in order to deliver a live child or to remove a dead  
 462 child whose demise was not the result of a termination of  
 463 pregnancy or an induced abortion from the patient's body.

464 ~~(10) PENALTIES FOR VIOLATION. Except as provided in~~  
 465 ~~subsections (3), (7), and (12):~~

466 ~~(a) Any person who willfully performs, or actively~~  
 467 ~~participates in, a termination of pregnancy in violation of the~~

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468 ~~requirements of this section or s. 390.01112 commits a felony of~~  
469 ~~the third degree, punishable as provided in s. 775.082, s.~~  
470 ~~775.083, or s. 775.084.~~

471 ~~(b) Any person who performs, or actively participates in, a~~  
472 ~~termination of pregnancy in violation of this section or s.~~  
473 ~~390.01112 which results in the death of the woman commits a~~  
474 ~~felony of the second degree, punishable as provided in s.~~  
475 ~~775.082, s. 775.083, or s. 775.084.~~

476 ~~(11) CIVIL ACTION PURSUANT TO PARTIAL-BIRTH ABORTION;~~  
477 ~~RELIEF.—~~

478 ~~(a) The father, if married to the mother at the time she~~  
479 ~~receives a partial-birth abortion, and, if the mother has not~~  
480 ~~attained the age of 18 years at the time she receives a partial-~~  
481 ~~birth abortion, the maternal grandparents of the fetus may, in a~~  
482 ~~civil action, obtain appropriate relief, unless the pregnancy~~  
483 ~~resulted from the plaintiff's criminal conduct or the plaintiff~~  
484 ~~consented to the abortion.~~

485 ~~(b) In a civil action under this section, appropriate~~  
486 ~~relief includes:~~

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

489 ~~2. Damages equal to three times the cost of the partial-~~  
490 ~~birth abortion.~~

491 ~~(10)~~ (12) INFANTS BORN ALIVE.—

492 (a) An infant born alive during or immediately after an  
493 attempted abortion is entitled to the same rights, powers, and  
494 privileges as are granted by the laws of this state to any other  
495 child born alive in the course of natural birth.

496 (b) If an infant is born alive during or immediately after

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497 an attempted abortion, any health care practitioner present at  
498 the time shall humanely exercise the same degree of professional  
499 skill, care, and diligence to preserve the life and health of  
500 the infant as a reasonably diligent and conscientious health  
501 care practitioner would render to an infant born alive at the  
502 same gestational age in the course of natural birth.

503 (c) An infant born alive during or immediately after an  
504 attempted abortion must be immediately transported and admitted  
505 to a hospital or other medical establishment as described in s.  
506 390.01112(4) ~~pursuant to s. 390.012(3)(c) or rules adopted~~  
507 ~~thereunder.~~

508 (d) A health care practitioner or any employee of a  
509 hospital, a physician's office, or an abortion clinic who has  
510 knowledge of a violation of this subsection must report the  
511 violation to the department.

512 (e) A person who violates this subsection commits a  
513 misdemeanor of the first degree, punishable as provided in s.  
514 775.082 or s. 775.083. This subsection shall not be construed as  
515 a specific provision of law relating to a particular subject  
516 matter that would preclude prosecution of a more general  
517 offense, regardless of the penalty.

518 (f) This subsection does not affirm, deny, expand, or  
519 contract any legal status or legal right applicable to any  
520 member of the species *Homo sapiens* at any point before ~~prior to~~  
521 being born alive as defined in s. 390.011.

522 (11) ~~(13)~~ FAILURE TO COMPLY.—Failure to comply with the  
523 requirements of this section or s. 390.01112 constitutes grounds  
524 for disciplinary action under each respective practice act and  
525 under s. 456.072.

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526 (12) ADOPTION ALTERNATIVE INFORMATION.—Any physician or  
 527 authorized personnel of a medical facility who learns that a  
 528 patient wishes to obtain an induced abortion, or that a patient  
 529 has had a termination of pregnancy where the fetus survived,  
 530 shall provide the patient with information concerning the  
 531 availability of adoption for her unwanted child. Compliance with  
 532 this subsection may be accomplished by providing the patient or,  
 533 in the case of a mentally incompetent patient, her court-  
 534 appointed guardian or, in the case of a minor patient, her  
 535 parent or legal guardian with the address and telephone number  
 536 of the Office of Adoption and Child Protection within the  
 537 Executive Office of the Governor and inform the patient or, in  
 538 the case of a mentally incompetent patient, her court-appointed  
 539 guardian or, in the case of a minor patient, her parent or legal  
 540 guardian of the existence of the statewide list of attorneys  
 541 available to provide volunteer legal services for adoption.

542 (13) ~~(14)~~ RULEMAKING AUTHORITY RULES.—

543 (a) Except for subsection (7), the agency may adopt rules  
 544 pursuant to ss. 120.536(1) and 120.54 to administer this  
 545 section. These rules must be for the purpose of protecting the  
 546 health and safety of pregnant women and minors and unborn human  
 547 persons. These rules are also for the purpose of securing  
 548 compliance with the requirements of this section and to  
 549 facilitate the enforcement of sanctions for those violations to  
 550 which administrative penalties apply.

551 (b) The department may adopt rules pursuant to ss.  
 552 120.536(1) and 120.54 to administer subsection (7) ~~The~~  
 553 ~~applicable boards, or the department if there is no board, shall~~  
 554 ~~adopt rules necessary to implement the provisions of this~~

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555 section.

556 Section 5. Section 390.01112, Florida Statutes, is amended  
557 to read:

558 390.01112 Termination of pregnancies during viability.—

559 (1) A ~~No~~ termination of pregnancy may not shall be  
560 performed on any human being if the physician determines that,  
561 in reasonable medical judgment, the fetus has achieved  
562 viability, unless:

563 (a) Two physicians certify in writing that, in their  
564 reasonable medical judgments judgment, the termination of the  
565 pregnancy is necessary to save the pregnant woman's life or  
566 avert a serious risk of substantial and irreversible physical  
567 impairment of a major bodily function of the pregnant woman  
568 other than a psychological condition; or

569 (b) The physician certifies in writing that, in his or her  
570 reasonable medical judgment, there is a medical necessity for  
571 legitimate emergency medical procedures for termination of the  
572 pregnancy to save the pregnant woman's life or avert a serious  
573 risk of imminent substantial and irreversible physical  
574 impairment of a major bodily function of the pregnant woman  
575 other than a psychological condition, and another physician is  
576 not available for consultation.

577 (2) Before performing a termination of pregnancy, a  
578 physician must determine if the fetus is viable by, at a  
579 minimum, performing a medical examination of the pregnant woman  
580 and, to the maximum extent possible through reasonably available  
581 tests and the ultrasound required under s. 390.0111(5)  
582 ~~390.0111(3)~~, an examination of the fetus. The physician must  
583 document in the pregnant woman's medical file the physician's

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584 determination and the method, equipment, fetal measurements, and  
585 any other information used to determine the viability of the  
586 fetus.

587 (3) If a termination of pregnancy is performed while the  
588 patient's fetus is viable ~~during viability~~, the physician  
589 performing the termination of pregnancy must exercise the same  
590 degree of professional skill, care, and diligence to preserve  
591 the life and health of the fetus that the physician would be  
592 required to exercise in order to preserve the life and health of  
593 a fetus intended to be born and not aborted. However, if  
594 preserving the life and health of the fetus conflicts with  
595 preserving the life and health of the woman, the physician must  
596 consider preserving the woman's life and health the overriding  
597 and superior concern. Violation of this subsection by a  
598 physician constitutes grounds for disciplinary action under s.  
599 458.331 or s. 459.015.

600 (4) A termination of pregnancy involving a viable fetus,  
601 when not prohibited under s. 390.0111(3), must be performed in a  
602 hospital or other medical establishment as defined in s.  
603 390.011(6) which is capable of providing all necessary  
604 lifesaving and life-sustaining medical services to the viable  
605 fetus.

606 (5) A physician who, once the matter of the viability or  
607 nonviability of the fetus is determined within a reasonable  
608 degree of medical probability, knowingly and willfully  
609 misrepresents the gestational age or stage of fetal development  
610 of a viable fetus in an entry into any medical record and who  
611 fails to use the standard of care required under subsection (3)  
612 on any fetus determined to be viable commits a felony of the

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613 first degree, punishable as provided in s. 775.082, s. 775.083,  
614 or s. 775.084.

615 Section 6. Subsection (8) of section 39.001, Florida  
616 Statutes, is amended, and paragraph (d) is added to subsection  
617 (9) of that section, to read:

618 39.001 Purposes and intent; personnel standards and  
619 screening.—

620 (8) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,  
621 ABANDONMENT, AND NEGLECT OF CHILDREN; ADOPTION SERVICES FOR  
622 WOMEN AND MINORS WITH UNWANTED PREGNANCIES.—The incidence of  
623 known child abuse, abandonment, and neglect has increased  
624 rapidly in recent ~~over the past 5~~ years. The impact that abuse,  
625 abandonment, or neglect has on the victimized child, siblings,  
626 family structure, and inevitably on all citizens of the state  
627 has caused the Legislature to determine that the prevention of  
628 child abuse, abandonment, and neglect shall be a priority of  
629 this state. In addition, to provide assistance for women and  
630 minors with unwanted pregnancies who would have selected  
631 abortion, if lawful in this state, rather than adoption as an  
632 alternative for their unborn children, the Legislature has  
633 determined to offer such women and minors information regarding  
634 volunteer legal services to accomplish an appropriate adoptive  
635 placement for their newborn children. ~~To further this end,~~ It is  
636 the intent of the Legislature that the an Office of Adoption and  
637 Child Protection be established and maintained to accomplish  
638 these purposes established.

639 (9) OFFICE OF ADOPTION AND CHILD PROTECTION.—

640 (d) In connection with the provision of volunteer legal  
641 services for women and minors with unwanted pregnancies who

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642 would have selected abortion, if lawful in this state, rather  
643 than adoption, the office shall:

644 1. Create and manage a statewide list of attorneys who  
645 provide volunteer adoption services for such women and minors.

646 2. Have deposited, directed, and budgeted in the full  
647 amount for use by the office, in addition to funds that would  
648 have been or are otherwise budgeted for the office, all moneys  
649 received by or otherwise awarded to the state from the Federal  
650 Government, the United States Treasury, or any other federal  
651 agency as a result of efforts made by the office to provide  
652 legal or other services for adoption.

653 Section 7. Section 390.01114, Florida Statutes, is  
654 repealed.

655 Section 8. Section 390.01116, Florida Statutes, is  
656 repealed.

657 Section 9. Section 390.0112, Florida Statutes, is repealed.

658 Section 10. Section 390.012, Florida Statutes, is repealed.

659 Section 11. Section 390.014, Florida Statutes, is repealed.

660 Section 12. Section 390.015, Florida Statutes, is repealed.

661 Section 13. Section 390.018, Florida Statutes, is repealed.

662 Section 14. Section 390.025, Florida Statutes, is repealed.

663 Section 15. Section 782.30, Florida Statutes, is repealed.

664 Section 16. Section 782.32, Florida Statutes, is repealed.

665 Section 17. Section 782.34, Florida Statutes, is repealed.

666 Section 18. Section 782.36, Florida Statutes, is repealed.

667 Section 19. Paragraph (a) of subsection (6) of section  
668 27.511, Florida Statutes, is amended to read:

669 27.511 Offices of criminal conflict and civil regional  
670 counsel; legislative intent; qualifications; appointment;

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671 duties.-

672 (6) (a) The office of criminal conflict and civil regional  
673 counsel has primary responsibility for representing persons  
674 entitled to court-appointed counsel under the Federal or State  
675 Constitution or as authorized by general law in civil  
676 proceedings, including, but not limited to, proceedings under s.  
677 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and  
678 proceedings to terminate parental rights under chapter 63.

679 ~~Private court-appointed counsel eligible under s. 27.40 have~~  
680 ~~primary responsibility for representing minors who request~~  
681 ~~counsel under s. 390.01114, the Parental Notice of Abortion Act;~~  
682 ~~however, the office of criminal conflict and civil regional~~  
683 ~~counsel may represent a minor under that section if the court~~  
684 ~~finds that no private court-appointed attorney is available.~~

685 Section 20. Subsection (1) of section 627.64995, Florida  
686 Statutes, is amended to read:

687 627.64995 Restrictions on use of state and federal funds  
688 for state exchanges.-

689 (1) A health insurance policy under which coverage is  
690 purchased in whole or in part with any state or federal funds  
691 through an exchange created pursuant to the federal Patient  
692 Protection and Affordable Care Act, Pub. L. No. 111-148, may not  
693 provide coverage for an induced abortion, as defined in s.  
694 390.011 and prohibited under s. 390.0111, or for a termination  
695 of pregnancy in violation of s. 390.0111(3) 390.011(1), except  
696 ~~if the pregnancy is the result of an act of rape or incest, or~~  
697 ~~in the case where a woman suffers from a physical disorder,~~  
698 ~~physical injury, or physical illness, including a life-~~  
699 ~~endangering physical condition caused by or arising from the~~

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700 ~~pregnancy itself, which would, as certified by a physician,~~  
701 ~~place the woman in danger of death unless an abortion is~~  
702 ~~performed.~~ Coverage is deemed to be purchased with state or  
703 federal funds if any tax credit or cost-sharing credit is  
704 applied toward the health insurance policy.

705 Section 21. Paragraph (a) of subsection (16) of section  
706 627.6699, Florida Statutes, is amended to read:

707 627.6699 Employee Health Care Access Act.—

708 (16) RESTRICTIONS ON COVERAGE.—

709 (a) A plan under which coverage is purchased in whole or in  
710 part with any state or federal funds through an exchange created  
711 pursuant to the federal Patient Protection and Affordable Care  
712 Act, Pub. L. No. 111-148, may not provide coverage for an  
713 induced abortion, as defined in s. 390.011 and prohibited under  
714 s. 390.0111, or for a termination of pregnancy in violation of  
715 s. 390.0111(3) ~~390.011(1),~~ except if the pregnancy is the result  
716 ~~of an act of rape or incest, or in the case where a woman~~  
717 ~~suffers from a physical disorder, physical injury, or physical~~  
718 ~~illness, including a life-endangering physical condition caused~~  
719 ~~by or arising from the pregnancy itself, which would, as~~  
720 ~~certified by a physician, place the woman in danger of death~~  
721 ~~unless an abortion is performed.~~ Coverage is deemed to be  
722 purchased with state or federal funds if any tax credit or cost-  
723 sharing credit is applied toward the plan.

724 Section 22. Subsection (1) of section 627.66996, Florida  
725 Statutes, is amended to read:

726 627.66996 Restrictions on use of state and federal funds  
727 for state exchanges.—

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

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729 under which coverage is purchased in whole or in part with any  
730 state or federal funds through an exchange created pursuant to  
731 the federal Patient Protection and Affordable Care Act, Pub. L.  
732 No. 111-148, may not provide coverage for an induced abortion,  
733 as defined in s. 390.011 and prohibited under s. 390.0111, or  
734 for a termination of pregnancy in violation of s. 390.0111(3)  
735 ~~390.011(1), except if the pregnancy is the result of an act of~~  
736 ~~rape or incest, or in the case where a woman suffers from a~~  
737 ~~physical disorder, physical injury, or physical illness,~~  
738 ~~including a life-endangering physical condition caused by or~~  
739 ~~arising from the pregnancy itself, which would, as certified by~~  
740 ~~a physician, place the woman in danger of death unless an~~  
741 ~~abortion is performed.~~ Coverage is deemed to be purchased with  
742 state or federal funds if any tax credit or cost-sharing credit  
743 is applied toward the group, franchise, or blanket health  
744 insurance policy.

745 Section 23. Subsection (1) of section 641.31099, Florida  
746 Statutes, is amended to read:

747 641.31099 Restrictions on use of state and federal funds  
748 for state exchanges.—

749 (1) A health maintenance contract under which coverage is  
750 purchased in whole or in part with any state or federal funds  
751 through an exchange created pursuant to the federal Patient  
752 Protection and Affordable Care Act, Pub. L. No. 111-148, may not  
753 provide coverage for an induced abortion, as defined in s.  
754 390.011 and prohibited under s. 390.0111, or for a termination  
755 of pregnancy in violation of s. 390.0111(3) ~~390.011(1), except~~  
756 ~~if the pregnancy is the result of an act of rape or incest, or~~  
757 ~~in the case where a woman suffers from a physical disorder,~~

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758 ~~physical injury, or physical illness, including a life-~~  
759 ~~endangering physical condition caused by or arising from the~~  
760 ~~pregnancy itself, which would, as certified by a physician,~~  
761 ~~place the woman in danger of death unless an abortion is~~  
762 ~~performed.~~ Coverage is deemed to be purchased with state or  
763 federal funds if any tax credit or cost-sharing credit is  
764 applied toward the health maintenance contract.

765 Section 24. Subsection (3) of section 743.065, Florida  
766 Statutes, is amended to read:

767 743.065 Unwed pregnant minor or minor mother; consent to  
768 medical services for minor or minor's child valid.-

769 (3) Nothing in this act shall affect the provisions of s.  
770 390.0111 or s. 390.01112.

771 Section 25. Subsection (4) of section 743.067, Florida  
772 Statutes, is amended to read:

773 743.067 Unaccompanied homeless youths.-

774 ~~(4) This section does not affect the requirements of s.~~  
775 ~~390.01114.~~

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

778 765.113 Restrictions on providing consent.-Unless the  
779 principal expressly delegates such authority to the surrogate in  
780 writing, or a surrogate or proxy has sought and received court  
781 approval pursuant to rule 5.900 of the Florida Probate Rules, a  
782 surrogate or proxy may not provide consent for:

783 (2) Withholding or withdrawing life-prolonging procedures  
784 from a pregnant patient before ~~prior to~~ viability as defined in  
785 s. 390.011(18) ~~390.0111(4)~~.

786 Section 27. This act shall take effect July 1, 2016.