

1 A bill to be entitled
 2 An act relating to termination of pregnancies;
 3 creating s. 390.035, F.S.; creating a cause of action
 4 for physical and emotional injury resulting from a
 5 termination of pregnancy; providing that this cause of
 6 action is not an exclusive remedy; providing that laws
 7 on medical malpractice actions do not apply to this
 8 cause of action; providing a statute of limitations
 9 and statute of repose; providing for tolling of the
 10 limitations periods; authorizing an award of attorney
 11 fees and costs to a prevailing plaintiff; defining the
 12 term "damages"; providing an effective date.

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

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 16 Section 1. Section 390.035, Florida Statutes, is created
 17 to read:

18 390.035 Liability for acts related to a termination of
 19 pregnancy; remedies; limitations.—

20 (1) A woman who suffers injury or death as a result of an
 21 abortion, or who suffers emotional distress as a result of a
 22 physician's failure to obtain the informed consent as required
 23 by s. 390.0111, has a cause of action for damages against the
 24 physician who performed the abortion or failed to provide the
 25 statutorily required informed consent.

26 (2) The signing of an informed consent form by the woman
27 prior to the abortion does not bar a cause of action brought
28 under this section.

29 (3) An action brought pursuant to this section is not a
30 claim for medical malpractice, and chapter 766 does not apply.
31 This section may not be construed as barring any other statutory
32 or common law cause of action for medical malpractice otherwise
33 available resulting from an abortion procedure or diminish the
34 nature or the extent of those causes of action. The cause of
35 action created in this section is in addition to any other
36 statutory or common law cause of action available to an injured
37 person. A woman who elects to pursue an action under this
38 section is precluded from seeking redress under chapter 766.

39 (4) Notwithstanding s. 95.11 or any other provision of
40 law, any action for damages brought under this section shall be
41 commenced within the latter of 4 years from the time the
42 incident giving rise to the action occurred or 4 years from the
43 time the injury is discovered or should have been discovered
44 with the exercise of due diligence; however, in no event shall
45 the action be commenced later than 10 years from the time the
46 incident giving rise to the action occurred. The limitations
47 periods created by this subsection shall be tolled while the
48 woman is a minor.

49 (5) A prevailing plaintiff in any action brought under
50 this section is entitled to reasonable attorney fees and costs.

51 (6) For the purposes of this section, the term "damages"
52 means all special and general damages which are recoverable in
53 an intentional tort, negligence, survival, or wrongful death
54 action, including, but not limited to, actual and punitive
55 damages.

56 Section 2. This act shall take effect July 1, 2017.