

By Senator Berman

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1                   A bill to be entitled  
2           An act relating to reproductive health care rights;  
3           creating s. 381.00515, F.S.; providing a short title;  
4           providing a legislative finding; providing that each  
5           person has certain fundamental rights related to  
6           reproductive health care; prohibiting a person, the  
7           state, a local governmental entity, or any political  
8           subdivision of the state from discriminating against,  
9           denying, unduly burdening, or interfering with a  
10          person's exercise of such fundamental rights;  
11          providing for a civil cause of action and remedies;  
12          providing that the recovery limits of sovereign  
13          immunity apply; amending s. 390.011, F.S.; deleting  
14          the definition of the term "fatal fetal abnormality";  
15          amending s. 390.0111, F.S.; revising the timeframe in  
16          which a termination of pregnancy is allowed; deleting  
17          an exception; providing an effective date.

18  
19          WHEREAS, comprehensive reproductive health care, including  
20          contraception and abortion, is a fundamental component of a  
21          woman's health, privacy, and equality, and

22          WHEREAS, section 23, Article I of the State Constitution  
23          protects a woman's fundamental right to access a safe, legal  
24          abortion, and the courts have reaffirmed this right and further  
25          emphasized that the state may not place undue burdens on women  
26          seeking to access such right, and

27          WHEREAS, as with other medical procedures, the safety of  
28          abortion is furthered by evidence-based practices developed and  
29          supported by medical professionals, with abortion being one of

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30 the safest medical procedures performed in the United States,  
31 and

32 WHEREAS, the goal of health care regulation should be to  
33 improve the quality and availability of health care services,  
34 and

35 WHEREAS, it is the public policy of this state that every  
36 person possesses the fundamental rights of privacy and equality  
37 with respect to his or her personal reproductive decisions and  
38 he or she should be able to safely effectuate those decisions,  
39 including seeking and obtaining abortion care, free from  
40 discrimination, and

41 WHEREAS, it is the intent of the Legislature to prevent the  
42 enforcement of laws or regulations that are not in furtherance  
43 of a legitimate state interest in protecting a woman's health  
44 and that place burdens on the woman's right to access a safe,  
45 legal abortion, NOW, THEREFORE,

46

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

48

49 Section 1. Section 381.00515, Florida Statutes, is created  
50 to read:

51 381.00515 Reproductive health care protections; civil  
52 remedies.—

53 (1) This section may be cited as the "Reproductive Health  
54 Care Protections Act."

55 (2) The Legislature finds that comprehensive reproductive  
56 health care is a fundamental component of every person's health,  
57 privacy, and equality.

58 (3) Each person has the fundamental rights to choose or

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59 refuse contraception or sterilization and to choose to carry a  
60 pregnancy to term, to give birth to a child, or to have an  
61 abortion in accordance with chapter 390.

62 (4) A person, the state, a local governmental entity, or  
63 any political subdivision of the state may not discriminate  
64 against, deny, unduly burden, or interfere with any person's  
65 exercise of the fundamental rights provided under this section  
66 or the State Constitution in the regulation or provision of  
67 benefits, facilities, services, or information.

68 (5) A person whose rights have been impaired or deprived in  
69 violation of this section may file an action in circuit court  
70 for injunctive or other equitable relief and is entitled to  
71 recover damages and reasonable attorney fees and costs. The  
72 total amount of recovery against the state, a local governmental  
73 entity, or any other political subdivision of the state may not  
74 exceed the limitations set forth in s. 768.28(5).

75 Section 2. Subsection (6) of section 390.011, Florida  
76 Statutes, is amended to read:

77 390.011 Definitions.—As used in this chapter, the term:

78 ~~(6) "Fatal fetal abnormality" means a terminal condition~~  
79 ~~that, in reasonable medical judgment, regardless of the~~  
80 ~~provision of life-saving medical treatment, is incompatible with~~  
81 ~~life outside the womb and will result in death upon birth or~~  
82 ~~imminently thereafter.~~

83 Section 3. Subsection (1) of section 390.0111, Florida  
84 Statutes, is amended to read:

85 390.0111 Termination of pregnancies.—

86 (1) TERMINATION IN THIRD TRIMESTER AFTER GESTATIONAL AGE OF  
87 15 WEEKS; WHEN ALLOWED.—A physician may not perform a

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88 termination of pregnancy in the third trimester of pregnancy ~~if~~  
89 ~~the physician determines the gestational age of the fetus is~~  
90 ~~more than 15 weeks~~ unless one of the following conditions is  
91 met:

92 (a) Two physicians certify in writing that, in reasonable  
93 medical judgment, the termination of the pregnancy is necessary  
94 to save the pregnant woman's life or avert a serious risk of  
95 substantial and irreversible physical impairment of a major  
96 bodily function of the pregnant woman other than a psychological  
97 condition.

98 (b) The physician certifies in writing that, in reasonable  
99 medical judgment, there is a medical necessity for legitimate  
100 emergency medical procedures for termination of the pregnancy to  
101 save the pregnant woman's life or avert a serious risk of  
102 imminent substantial and irreversible physical impairment of a  
103 major bodily function of the pregnant woman other than a  
104 psychological condition, and another physician is not available  
105 for consultation.

106 ~~(c) The fetus has not achieved viability under s. 390.01112~~  
107 ~~and two physicians certify in writing that, in reasonable~~  
108 ~~medical judgment, the fetus has a fatal fetal abnormality.~~

109 Section 4. This act shall take effect July 1, 2023.