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1 A bill to be entitled
2 An act relating to abortions; amending s. 390.011,
3 F.S.; providing definitions; amending s. 390.0111,
4 F.S.; conforming terminology to changes made by the
5 act; restricting the circumstances in which an
6 abortion may be performed in the third trimester or
7 after viability; providing certain physician and
8 location requirements with regard to performing
9 abortions; requiring a physician who offers to perform
10 or who performs abortions to complete continuing
11 education related to ethics; prohibiting an abortion
12 from being performed in the third trimester in a
13 location other than a hospital; prohibiting any
14 abortion from being performed in a location other than
15 a hospital, abortion clinic, or physician's office;
16 requiring that certain requirements be completed 24
17 hours before an abortion is performed in order for
18 consent to an abortion to be considered voluntary and
19 informed; conforming terminology; providing that
20 substantial compliance or reasonable belief that
21 noncompliance with the requirements regarding consent
22 is necessary to prevent the death of the pregnant
23 woman or a substantial and irreversible impairment of
24 a major bodily function of the pregnant woman is a
25 defense to a disciplinary action under s. 458.331 or
26 s. 459.015, F.S.; deleting the definition of the term
27 "viability"; providing that the prevention of the
28 death or a substantial and irreversible impairment of

29 a major bodily function of the pregnant woman
30 constitutes an overriding and superior consideration
31 to the concern for the life and health of the fetus
32 under certain circumstances; prohibiting a physician
33 from knowingly performing a partial-birth abortion and
34 thereby killing a human fetus; providing exceptions
35 for when a partial-birth abortion is necessary;
36 increasing the penalty imposed for failing to properly
37 dispose of fetal remains; requiring the Department of
38 Health to permanently revoke the license of any health
39 care practitioner who is convicted or found guilty of,
40 or enters a plea of guilty or nolo contendere to,
41 regardless of adjudication, certain felony criminal
42 acts; providing that an infant born alive subsequent
43 to an attempted abortion is entitled to the same
44 rights, powers, and privileges as are granted by the
45 laws of this state; requiring a health care
46 practitioner to exercise the same degree of
47 professional skill, care, and diligence to preserve
48 the life and health of an infant as a reasonably
49 diligent and conscientious health care practitioner
50 would render to any infant born alive if the infant is
51 born alive subsequent to an attempted abortion;
52 requiring that another physician be present in order
53 to take control of any infant born alive; requiring
54 the physician who performs the abortion to take all
55 reasonable steps consistent with the abortion
56 procedure to preserve the life and health of the

57 unborn child; requiring a health care practitioner who
58 has knowledge of any violations to report the
59 violations to the department; providing that it is a
60 first-degree misdemeanor to unlawfully advertise how
61 to obtain an abortion; requiring an abortion clinic to
62 place a conspicuous notice on its premises and on any
63 form or medium of advertisement of the abortion clinic
64 which states that the abortion clinic is prohibited
65 from performing abortions in the third trimester or
66 after viability; providing a penalty; requiring the
67 Agency for Health Care Administration to submit to the
68 Governor and Legislature an annual report of aggregate
69 statistical data relating to abortions and provide
70 such data on its website; amending s. 390.01114, F.S.;
71 conforming terminology to changes made by the act;
72 deleting the definition of the term "medical
73 emergency"; amending s. 390.0112, F.S.; requiring the
74 director of a hospital, abortion clinic, or
75 physician's office to submit a monthly report to the
76 agency on a form developed by the agency which is
77 consistent with the U.S. Standard Report of Induced
78 Termination of Pregnancy from the Centers for Disease
79 Control and Prevention; requiring that the submitted
80 report not contain any personal identifying
81 information; requiring the agency to submit reported
82 data to the Division of Reproductive Health within the
83 Centers for Disease Control and Prevention; requiring
84 the physician performing the abortion procedure to

85 report such data if the abortion was performed in a
86 hospital, abortion clinic, or physician's office;
87 requiring the agency to adopt rules; amending s.
88 390.012, F.S.; conforming a cross-reference; requiring
89 the agency to adopt rules that prescribe standards for
90 placing conspicuous notice to be provided on the
91 premises and on any advertisement of an abortion
92 clinic which states that the abortion clinic is
93 prohibited from performing abortions in the third
94 trimester or after viability; conforming terminology
95 to changes made by the act; amending s. 390.014, F.S.;
96 prohibiting a person from establishing, conducting,
97 managing, or operating a clinic in this state without
98 a valid and current license issued by the agency;
99 requiring an abortion clinic to be owned and operated
100 by a physician who has received training during
101 residency in performing a dilation-and-curettage
102 procedure or a dilation-and-evacuation procedure or by
103 a corporation or limited liability company composed of
104 one or more such physicians; providing an exception;
105 providing a penalty; amending s. 390.018, F.S.;
106 revising the amount of the fine that the agency may
107 impose for a violation of ch. 390, F.S., relating to
108 abortion, or part II of ch. 408, F.S., relating to
109 licensure; amending s. 456.013, F.S.; requiring that
110 each applicable board require a physician who offers
111 to perform or performs abortions to annually complete
112 a course relating to ethics as part of the licensure

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and renewal process; providing that the course counts toward the total number of continuing education hours required for the profession; requiring the applicable board to approve the course; amending s. 765.113, F.S.; conforming a cross-reference; repealing ss. 782.30, 782.32, 782.34, and 782.36, F.S., relating to the Partial-Birth Abortion Act; repealing s. 797.02, F.S., relating to the advertising of drugs for abortions; repealing s. 797.03, F.S., relating to prohibited acts related to abortions and their penalties; providing for severability; providing an effective date.

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

Section 1. Section 390.011, Florida Statutes, is amended to read:

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

(1) "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus.

(2) "Abortion clinic" or "clinic" means any facility in which abortions are performed. The term does not include:

(a) A hospital; or

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

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

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141 (4) "Born alive" means the complete expulsion or
142 extraction from the mother of a human infant, at any stage of
143 development, who, after such expulsion or extraction, breathes
144 or has a beating heart, pulsation of the umbilical cord, or
145 definite and voluntary movement of muscles, regardless of
146 whether the umbilical cord has been cut and regardless of
147 whether the expulsion or extraction occurs as a result of
148 natural or induced labor, cesarean section, induced abortion, or
149 other method.

150 ~~(5)-(4)~~ "Department" means the Department of Health.

151 (6) "Health care practitioner" means any person licensed
152 under chapter 457; chapter 458; chapter 459; chapter 460;
153 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
154 chapter 466; chapter 467; part I, part II, part III, part V,
155 part X, part XIII, or part XIV of chapter 468; chapter 478;
156 chapter 480; part III or part IV of chapter 483; chapter 484;
157 chapter 486; chapter 490; or chapter 491.

158 ~~(7)-(5)~~ "Hospital" means a facility as defined in s.
159 395.002(12) and licensed under chapter 395 and part II of
160 chapter 408.

161 (8) "Medical emergency" means a condition that, on the
162 basis of a physician's good faith clinical judgment, so
163 complicates the medical condition of a pregnant woman as to
164 necessitate the immediate termination of her pregnancy to avert
165 her death, or for which a delay in the termination of her
166 pregnancy will create serious risk of substantial and
167 irreversible impairment of a major bodily function.

168 ~~(9)-(6)~~ "Partial-birth abortion" means an abortion a

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169 ~~termination of pregnancy~~ in which the physician performing the
170 ~~abortion: termination of pregnancy partially vaginally delivers~~
171 ~~a living fetus before killing the fetus and completing the~~
172 ~~delivery.~~

173 (a) Deliberately and intentionally vaginally delivers a
174 living fetus until, in the case of a head-first presentation,
175 the entire fetal head is outside the body of the mother, or, in
176 the case of breech presentation, any part of the fetal trunk
177 past the navel is outside the body of the mother, for the
178 purpose of performing an overt act that the person knows will
179 kill the partially delivered living fetus; and

180 (b) Performs the overt act, other than completion of
181 delivery, which kills the partially delivered living fetus.

182 (10)(7) "Physician" means a physician licensed under
183 chapter 458 or chapter 459 or a physician practicing medicine or
184 osteopathic medicine in the employment of the United States.

185 (11)(8) "Third trimester" means the weeks of pregnancy
186 after the 24th week of pregnancy.

187 (12) "Viability" means that stage of fetal development
188 when the life of the unborn child may, with a reasonable degree
189 of medical probability, be continued indefinitely outside the
190 womb.

191 Section 2. Section 390.0111, Florida Statutes, is amended
192 to read:

193 390.0111 Abortions ~~Termination of pregnancies.~~

194 (1) ABORTION TERMINATION IN THIRD TRIMESTER OR AFTER
195 VIABILITY; WHEN ALLOWED. ~~An abortion may not~~ ~~No termination of~~
196 ~~pregnancy shall be performed on any human being in the third~~

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197 trimester or after the period at which, in the best medical
198 judgment of the physician, the fetus has attained viability ~~of~~
199 ~~pregnancy~~ unless:

200 (a) Two physicians certify in writing to the fact that, to
201 a reasonable degree of medical probability, the abortion
202 ~~termination of pregnancy~~ is necessary to prevent the death of
203 the pregnant woman or the substantial and irreversible
204 impairment of a major bodily function ~~save the life or preserve~~
205 ~~the health~~ of the pregnant woman; or

206 (b) The physician certifies in writing to the existence of
207 a medical emergency ~~medical necessity for legitimate emergency~~
208 ~~medical procedures for termination of pregnancy in the third~~
209 ~~trimester~~, and another physician is not available for
210 consultation.

211 (2) PHYSICIAN AND LOCATION REQUIREMENTS ~~PERFORMANCE BY~~
212 ~~PHYSICIAN REQUIRED.~~

213 (a) An abortion may not ~~No termination of pregnancy shall~~
214 be performed at any time except by a physician ~~as defined in s.~~
215 ~~390.011.~~

216 (b) A physician who offers to perform or who performs
217 abortions in an abortion clinic must annually complete a minimum
218 of 3 hours of continuing education related to ethics.

219 (c) Except in the case of a medical emergency, an abortion
220 may not be performed:

221 1. In the third trimester, or after the fetus has attained
222 viability, in a location other than in a hospital.

223 2. In cases in which subparagraph 1. does not apply, in a
224 location other than a hospital, a validly licensed abortion

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225 clinic, or a physician's office.

226 (3) CONSENTS REQUIRED.—An abortion ~~A termination of~~
227 ~~pregnancy~~ may not be performed or induced except with the
228 voluntary and informed written consent of the pregnant woman or,
229 in the case of a mental incompetent, the voluntary and informed
230 written consent of her court-appointed guardian.

231 (a) Except in the case of a medical emergency, consent to
232 an abortion ~~a termination of pregnancy~~ is voluntary and informed
233 only if the following requirements are completed at least 24
234 hours before the abortion is performed:

235 1. The physician who is to perform the procedure, or the
236 referring physician, has, at a minimum, orally, in person,
237 informed the woman of:

238 a. The nature and risks of undergoing or not undergoing
239 the proposed procedure which ~~that~~ a reasonable patient would
240 consider material to making a knowing and willful decision of
241 whether to obtain an abortion ~~terminate a pregnancy~~.

242 b. The probable gestational age of the fetus, verified by
243 an ultrasound, at the time the abortion ~~termination of pregnancy~~
244 is to be performed.

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

250 (II) The person performing the ultrasound must offer the
251 woman the opportunity to view the live ultrasound images and
252 hear an explanation of them. If the woman accepts the

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253 opportunity to view the images and hear the explanation, a
254 physician or a registered nurse, licensed practical nurse,
255 advanced registered nurse practitioner, or physician assistant
256 working in conjunction with the physician must contemporaneously
257 review and explain the images to the woman before the woman
258 gives informed consent to having an abortion procedure
259 performed.

260 (III) The woman has a right to decline to view and hear
261 the explanation of the live ultrasound images after she is
262 informed of her right and offered an opportunity to view the
263 images and hear the explanation. If the woman declines, the
264 woman shall complete a form acknowledging that she was offered
265 an opportunity to view and hear the explanation of the images
266 but that she declined that opportunity. The form must also
267 indicate that the woman's decision was not based on any undue
268 influence from any person to discourage her from viewing the
269 images or hearing the explanation and that she declined of her
270 own free will.

271 (IV) Unless requested by the woman, the person performing
272 the ultrasound may not offer the opportunity to view the images
273 and hear the explanation and the explanation may not be given
274 if, at the time the woman schedules or arrives for her
275 appointment to obtain an abortion, a copy of a restraining
276 order, police report, medical record, or other court order or
277 documentation is presented which provides evidence that the
278 woman is obtaining the abortion because the woman is a victim of
279 rape, incest, domestic violence, or human trafficking or that
280 the woman has been diagnosed as having a condition that, on the

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281 basis of a physician's good faith clinical judgment, would
282 create a serious risk of substantial and irreversible impairment
283 of a major bodily function if the woman delayed terminating her
284 pregnancy.

285 c. The medical risks to the woman and fetus of carrying
286 the pregnancy to term.

287 2. Printed materials prepared and provided by the
288 department have been provided to the pregnant woman, if she
289 chooses to view these materials, including:

290 a. A description of the fetus, including a description of
291 the various stages of development.

292 b. A list of entities that offer alternatives to abortion
293 ~~terminating the pregnancy~~.

294 c. Detailed information on the availability of medical
295 assistance benefits for prenatal care, childbirth, and neonatal
296 care.

297 3. The woman acknowledges in writing, ~~before the~~
298 ~~termination of pregnancy~~, that the information required to be
299 provided under this subsection has been provided.

300
301 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prohibit a
302 physician from providing any additional information that ~~which~~
303 the physician deems material to the woman's informed decision to
304 obtain an abortion ~~terminate her pregnancy~~.

305 (b) If a medical emergency exists and a physician cannot
306 comply with the requirements for informed consent, a physician
307 may perform an abortion ~~terminate a pregnancy~~ if he or she has
308 obtained at least one corroborative medical opinion attesting to

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the medical necessity for emergency medical procedures and to the fact that to a reasonable degree of medical certainty the continuation of the pregnancy would threaten the life of the pregnant woman. If a second physician is not available for a corroborating opinion, the physician may proceed but shall document reasons for the medical necessity in the patient's medical records.

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015. Substantial compliance or reasonable belief that noncompliance ~~complying~~ with the requirements of this subsection is necessary to prevent the death of the pregnant woman or a substantial and irreversible impairment of a major bodily function of the pregnant woman ~~informed consent would threaten the life or health of the patient~~ is a defense to any action brought under this paragraph.

(4) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.— If an abortion ~~a termination of pregnancy~~ is performed during viability, a ~~no~~ person who performs or induces the abortion ~~termination of pregnancy~~ shall ~~fail to~~ use that degree of professional skill, care, and diligence to preserve the life and health of the fetus which such person would be required to exercise in order to preserve the life and health of any fetus intended to be born and not aborted. ~~"Viability" means that stage of fetal development when the life of the unborn child may with a reasonable degree of medical probability be continued indefinitely outside the womb.~~ Notwithstanding the provisions of this subsection, the prevention of the death of the pregnant

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337 woman or a substantial and irreversible impairment of a major
338 bodily function of the pregnant woman constitutes ~~the woman's~~
339 ~~life and health shall constitute~~ an overriding and superior
340 consideration to the concern for the life and health of the
341 fetus when such concerns are in conflict.

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

343 (a) A ~~No~~ physician may not ~~shall~~ knowingly perform a
344 partial-birth abortion and thereby kill a human fetus.

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

348 (c) This subsection does ~~shall~~ not apply to a partial-
349 birth abortion that is necessary to save the life of a mother
350 whose life is endangered by a physical disorder, physical
351 illness, or physical injury, including a life-endangering
352 physical condition cause by or arising from the pregnancy
353 itself, if ~~provided that~~ no other medical procedure would
354 suffice for that purpose.

355 (6) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—A ~~No~~
356 person may not ~~shall~~ use any live fetus or live, premature
357 infant for any type of scientific, research, laboratory, or
358 other kind of experimentation before ~~either prior to~~ or
359 subsequent to any abortion ~~termination of pregnancy~~ procedure
360 except as necessary to protect or preserve the life and health
361 of such fetus or premature infant.

362 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
363 sanitary and appropriate manner and in accordance with standard
364 health practices, as provided by rule of the department ~~of~~

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Health. Failure to dispose of fetal remains in accordance with department rules is a misdemeanor of the first ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

(8) REFUSAL TO PARTICIPATE IN ABORTION ~~TERMINATION~~ PROCEDURE.—~~Nothing in~~ This section does not ~~shall~~ require any hospital or any person to participate in an abortion ~~the termination of a pregnancy~~, and a ~~nor shall any~~ hospital or any person is not ~~be~~ liable for such refusal. ~~A~~ No person who is a member of, or associated with, the staff of a hospital, or ~~nor~~ any employee of a hospital or physician in which or by whom the abortion ~~termination of a pregnancy~~ has been authorized or performed, who states ~~shall state~~ an objection to such procedure on moral or religious grounds is not ~~shall be~~ required to participate in the procedure that ~~which~~ will result in the abortion ~~termination of pregnancy~~. The refusal of any such person or employee to participate does ~~shall~~ not form the basis for any disciplinary or other recriminatory action against such person.

(9) EXCEPTION.—The provisions of this section do ~~shall~~ not apply to the performance of a procedure that ~~which~~ terminates a pregnancy in order to deliver a live child.

(10) PENALTIES FOR VIOLATION.—Except as provided in subsections (3) and (7):

(a) Any person who willfully performs, or actively participates in, an abortion ~~a termination of pregnancy~~ procedure in violation of the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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393 (b) Any person who performs, or actively participates in,
394 an abortion ~~a termination of pregnancy~~ procedure in violation of
395 ~~the provisions of~~ this section which results in the death of the
396 woman commits a felony of the second degree, punishable as
397 provided in s. 775.082, s. 775.083, or s. 775.084.

398 (c) The department shall permanently revoke the license of
399 any licensed health care practitioner who has been convicted or
400 found guilty of, or entered a plea of guilty or nolo contendere
401 to, regardless of adjudication, a felony as provided in this
402 subsection.

403 (11) CIVIL ACTION PURSUANT TO PARTIAL-BIRTH ABORTION;
404 RELIEF.—

405 (a) The father, if married to the mother at the time she
406 receives a partial-birth abortion, and, if the mother has not
407 attained the age of 18 years at the time she receives a partial-
408 birth abortion, the maternal grandparents of the fetus may, in a
409 civil action, obtain appropriate relief, unless the pregnancy
410 resulted from the plaintiff's criminal conduct or the plaintiff
411 consented to the abortion.

412 (b) In a civil action under this section, appropriate
413 relief includes:

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

416 2. Damages equal to three times the cost of the partial-
417 birth abortion.

418 (12) INFANTS BORN ALIVE.—

419 (a) An infant born alive subsequent to an attempted
420 abortion is entitled to the same rights, powers, and privileges

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as are granted by the laws of this state to any other child born alive in the course of birth that is not subsequent to an attempted abortion.

(b) If an infant is born alive subsequent to an attempted abortion, any health care practitioner present at the time shall humanely exercise the same degree of professional skill, care, and diligence to preserve the life and health of the infant as a reasonably diligent and conscientious health care practitioner would render to an infant born alive in the course of birth that is not subsequent to an attempted abortion.

(c) An abortion may not be attempted pursuant to paragraph (1)(a) unless a physician other than the physician performing the abortion is in attendance to take control of any infant born alive, to provide immediate medical care to the infant, and to discharge the obligations imposed by paragraph (b). The physician who performs the abortion shall take all reasonable steps consistent with the abortion procedure to preserve the life and health of the unborn child.

(d) A health care practitioner who has knowledge of a violation of this subsection shall report the violation to the department.

(13) PUBLIC NOTICES AND ADVERTISEMENTS.—

(a) A person may not knowingly advertise, print, publish, distribute, or circulate, or knowingly cause to be advertised, printed, published, distributed, or circulated, any pamphlet, printed paper, book, newspaper notice, advertisement, or reference containing words or language giving or conveying any notice, hint, or reference to any person, or the name of any

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449 person, real or fictitious, from whom, or to any place, house,
450 shop, or office where any poison, drug, mixture, preparation,
451 medicine, or noxious thing, or any instrument or means whatever,
452 or any advice, direction, information, or knowledge that may be
453 obtained for the purpose of performing an abortion in violation
454 of this chapter.

455 (b) An abortion clinic must provide conspicuous written
456 notice on its premises and on any advertisement that the
457 abortion clinic is prohibited, except in a medical emergency,
458 from performing abortions in the third trimester or after the
459 fetus has attained viability.

460 (c) Any person who violates this subsection commits a
461 misdemeanor of the first degree, punishable as provided in s.
462 775.082 or s. 775.083.

463 (14) RESPONSIBILITIES OF THE AGENCY.—Before each regular
464 legislative session, the agency shall report aggregate
465 statistical data relating to abortions, which has been reported
466 to the Division of Reproductive Health within the Centers for
467 Disease Control and Prevention, on its website and provide an
468 annual report to the Governor, the President of the Senate, and
469 the Speaker of the House of Representatives regarding such data.
470 Any information required to be reported under this subsection
471 must not include any personal identifying information.

472 (15) ~~(12)~~ FAILURE TO COMPLY.—Failure to comply with the
473 requirements of this section constitutes grounds for
474 disciplinary action under each respective practice act and under
475 s. 456.072.

476 (16) ~~(13)~~ RULES.—The applicable boards, or the department

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if there is no board, shall adopt rules necessary to implement the provisions of this section.

Section 3. Section 390.01114, Florida Statutes, is amended to read:

390.01114 Parental Notice of Abortion Act.—

(1) SHORT TITLE.—This section may be cited as the "Parental Notice of Abortion Act."

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

(a) "Actual notice" means notice that is given directly, in person or by telephone, to a parent or legal guardian of a minor, by a physician, at least 48 hours before the inducement or performance of an abortion ~~a termination of pregnancy~~, and documented in the minor's files.

(b) "Child abuse" means abandonment, abuse, harm, mental injury, neglect, physical injury, or sexual abuse of a child as those terms are defined in ss. 39.01, 827.04, and 984.03.

(c) "Constructive notice" means notice that is given in writing, signed by the physician, and mailed at least 72 hours before the inducement or performance of the abortion ~~termination of pregnancy~~, to the last known address of the parent or legal guardian of the minor, by first-class mail and by certified mail, return receipt requested, and delivery restricted to the parent or legal guardian. After the 72 hours have passed, delivery is deemed to have occurred.

~~(d) "Medical emergency" means a condition that, on the basis of a physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate termination of her pregnancy to avert~~

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her death, or for which a delay in the termination of her pregnancy will create serious risk of substantial and irreversible impairment of a major bodily function.

(d) ~~(e)~~ "Sexual abuse" has the meaning ascribed in s. 39.01.

~~(e)~~ ~~(f)~~ "Minor" means a person under the age of 18 years.

(3) NOTIFICATION REQUIRED.—

(a) Actual notice shall be provided by the physician performing or inducing an abortion with respect to the ~~termination of pregnancy before the performance or inducement of the termination of~~ the pregnancy of a minor. The notice may be given by a referring physician. The physician who performs or induces the abortion ~~termination of pregnancy~~ must receive the written statement of the referring physician certifying that the referring physician has given notice. If actual notice is not possible after a reasonable effort has been made, the physician performing or inducing the abortion ~~termination of pregnancy~~ or the referring physician must give constructive notice. Notice given under this subsection by the physician performing or inducing the abortion ~~termination of pregnancy~~ must include the name and address of the facility providing the abortion ~~termination of pregnancy~~ and the name of the physician providing notice. Notice given under this subsection by a referring physician must include the name and address of the facility where he or she is referring the minor and the name of the physician providing notice. If actual notice is provided by telephone, the physician must actually speak with the parent or guardian, and must record in the minor's medical file the name

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533 of the parent or guardian provided notice, the phone number
534 dialed, and the date and time of the call. If constructive
535 notice is given, the physician must document that notice by
536 placing copies of any document related to the constructive
537 notice, including, but not limited to, a copy of the letter and
538 the return receipt, in the minor's medical file. Actual notice
539 given by telephone shall be confirmed in writing, signed by the
540 physician, and mailed to the last known address of the parent or
541 legal guardian of the minor, by first-class mail and by
542 certified mail, return receipt requested, with delivery
543 restricted to the parent or legal guardian.

544 (b) Notice is not required if:

545 1. In the physician's good faith clinical judgment, a
546 medical emergency exists and there is insufficient time for the
547 attending physician to comply with the notification
548 requirements. If a medical emergency exists, the physician shall
549 make reasonable attempts, whenever possible, without endangering
550 the minor, to contact the parent or legal guardian, and may
551 proceed, but must document reasons for the medical necessity in
552 the patient's medical records. The physician shall provide
553 notice directly, in person or by telephone, to the parent or
554 legal guardian, including details of the medical emergency and
555 any additional risks to the minor. If the parent or legal
556 guardian has not been notified within 24 hours after the
557 abortion ~~termination of the pregnancy~~, the physician shall
558 provide notice in writing, including details of the medical
559 emergency and any additional risks to the minor, signed by the
560 physician, to the last known address of the parent or legal

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guardian of the minor, by first-class mail and by certified mail, return receipt requested, with delivery restricted to the parent or legal guardian;

2. Notice is waived in writing by the person who is entitled to notice and such waiver is notarized, dated not more than 30 days before the abortion ~~termination of pregnancy~~, and contains a specific waiver of the right of the parent or legal guardian to notice of the minor's abortion ~~termination of pregnancy~~;

3. Notice is waived by the minor who is or has been married or has had the disability of nonage removed under s. 743.015 or a similar statute of another state;

4. Notice is waived by the patient because the patient has a minor child dependent on her; or

5. Notice is waived under subsection (4).

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015.

(4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.—

(a) A minor may petition any circuit court in which the minor resides for a waiver of the notice requirements of subsection (3) and may participate in proceedings on her own behalf. The petition may be filed under a pseudonym or through the use of initials, as provided by court rule. The petition must include a statement that the petitioner is pregnant and notice has not been waived. The court shall advise the minor that she has a right to court-appointed counsel and shall provide her with counsel upon her request at no cost to the

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589 minor.

590 (b)1. Court proceedings under this subsection must be
591 given precedence over other pending matters to the extent
592 necessary to ensure that the court reaches a decision promptly.
593 The court shall rule, and issue written findings of fact and
594 conclusions of law, within 3 business days after the petition is
595 filed, except that the 3-business-day limitation may be extended
596 at the request of the minor. If the court fails to rule within
597 the 3-business-day period and an extension has not been
598 requested, the minor may immediately petition for a hearing upon
599 the expiration of the 3-business-day period to the chief judge
600 of the circuit, who must ensure a hearing is held within 48
601 hours after receipt of the minor's petition and an order is
602 entered within 24 hours after the hearing.

603 2. If the circuit court does not grant judicial waiver of
604 notice, the minor has the right to appeal. An appellate court
605 must rule within 7 days after receipt of appeal, but a ruling
606 may be remanded with further instruction for a ruling within 3
607 business days after the remand. The reason for overturning a
608 ruling on appeal must be based on abuse of discretion by the
609 court and may not be based on the weight of the evidence
610 presented to the circuit court since the proceeding is a
611 nonadversarial proceeding.

612 (c) If the court finds, by clear and convincing evidence,
613 that the minor is sufficiently mature to decide whether to
614 obtain an abortion ~~terminate her pregnancy~~, the court shall
615 issue an order authorizing the minor to consent to the
616 performance or inducement of an abortion ~~a termination of~~

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617 ~~pregnancy~~ without the notification of a parent or guardian. If
618 the court does not make the finding specified in this paragraph
619 or paragraph (d), it must dismiss the petition. Factors the
620 court shall consider include:

621 1. The minor's:

622 a. Age.

623 b. Overall intelligence.

624 c. Emotional development and stability.

625 d. Credibility and demeanor as a witness.

626 e. Ability to accept responsibility.

627 f. Ability to assess both the immediate and long-range
628 consequences of the minor's choices.

629 g. Ability to understand and explain the medical risks of
630 an abortion ~~terminating her pregnancy~~ and to apply that
631 understanding to her decision.

632 2. Whether there may be any undue influence by another on
633 the minor's decision to have an abortion.

634 (d) If the court finds, by a preponderance of the
635 evidence, that the petitioner is the victim of child abuse or
636 sexual abuse inflicted by one or both of her parents or her
637 guardian, or by clear and convincing evidence that the
638 notification of a parent or guardian is not in the best interest
639 of the petitioner, the court shall issue an order authorizing
640 the minor to consent to the performance or inducement of an
641 abortion ~~a termination of pregnancy~~ without the notification of
642 a parent or guardian. The best-interest standard does not
643 include financial best interest or financial considerations or
644 the potential financial impact on the minor or the minor's

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645 family if the minor does not obtain the abortion ~~terminate the~~
646 ~~pregnancy~~. If the court finds evidence of child abuse or sexual
647 abuse of the minor petitioner by any person, the court shall
648 report the evidence of child abuse or sexual abuse of the
649 petitioner, as provided in s. 39.201. If the court does not make
650 the finding specified in this paragraph or paragraph (c), it
651 must dismiss the petition.

652 (e) A court that conducts proceedings under this section
653 shall:

654 1. Provide for a written transcript of all testimony and
655 proceedings;

656 2. Issue a final written order containing factual findings
657 and legal conclusions supporting its decision, including factual
658 findings and legal conclusions relating to the maturity of the
659 minor as provided under paragraph (c); and

660 3. Order that a confidential record be maintained, as
661 required under s. 390.01116.

662 (f) All hearings under this section, including appeals,
663 shall remain confidential and closed to the public, as provided
664 by court rule.

665 (g) An expedited appeal shall be made available, as the
666 Supreme Court provides by rule, to any minor to whom the circuit
667 court denies a waiver of notice. An order authorizing an
668 abortion ~~a termination of pregnancy~~ without notice is not
669 subject to appeal.

670 (h) Filing fees or court costs may not be required of any
671 pregnant minor who petitions a court for a waiver of parental
672 notification under this subsection at either the trial or the

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appellate level.

(i) A county is not obligated to pay the salaries, costs, or expenses of any counsel appointed by the court under this subsection.

(5) PROCEEDINGS.—The Supreme Court is requested to adopt rules and forms for petitions to ensure that proceedings under subsection (4) are handled expeditiously and in a manner consistent with this act. The Supreme Court is also requested to adopt rules to ensure that the hearings protect the minor's confidentiality and the confidentiality of the proceedings.

(6) REPORT.—The Supreme Court, through the Office of the State Courts Administrator, shall report by February 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the number of petitions filed under subsection (4) for the preceding year, and the timing and manner of disposal of such petitions by each circuit court. For each petition resulting in a waiver of notice, the reason for the waiver shall be included in the report.

Section 4. Section 390.0112, Florida Statutes, is amended to read:

390.0112 Abortions ~~Termination of pregnancies~~; reporting.—

(1) The director of any hospital, validly licensed abortion clinic, or physician's office ~~medical facility~~ in which an abortion is performed ~~any pregnancy is terminated~~ shall submit a ~~monthly~~ report each month to the agency on a form developed by the agency which is consistent with the U.S. Standard Report of Induced Termination of Pregnancy from the

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701 Centers for Disease Control and Prevention. The report must not
702 contain any personal identifying information ~~which contains the~~
703 ~~number of procedures performed, the reason for same, and the~~
704 ~~period of gestation at the time such procedures were performed~~
705 ~~to the agency.~~ The agency shall be responsible for keeping such
706 reports in a central place from which statistical data and
707 analysis can be made. The agency shall submit reported data to
708 the Division of Reproductive Health within the Centers for
709 Disease Control and Prevention.

710 (2) If the abortion ~~termination of pregnancy~~ is not
711 performed in a hospital, validly licensed abortion clinic, or
712 physician's office ~~medical facility~~, the physician performing
713 the procedure shall report ~~be responsible for reporting~~ such
714 information as required in subsection (1).

715 (3) Reports submitted pursuant to this section shall be
716 confidential and exempt from the provisions of s. 119.07(1) and
717 shall not be revealed except upon the order of a court of
718 competent jurisdiction in a civil or criminal proceeding or as
719 required in subsection (1).

720 (4) Any person required under this section to file a
721 report or keep any records who willfully fails to file such
722 report or keep such records may be subject to a \$200 fine for
723 each violation. The agency shall ~~be required to~~ impose such
724 fines when reports or records required under this section have
725 not been timely received. For purposes of this section, timely
726 received is defined as 30 days following the preceding month.

727 (5) The agency may adopt rules necessary to administer
728 this section.

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Section 5. Paragraphs (b) and (c) of subsection (1), paragraph (a) of subsection (3), and subsection (6) of section 390.012, Florida Statutes, are amended to read:

390.012 Powers of agency; rules; disposal of fetal remains.—

(1) The agency may develop and enforce rules pursuant to ss. 390.011-390.018 and part II of chapter 408 for the health, care, and treatment of persons in abortion clinics and for the safe operation of such clinics.

(b) The rules shall be in accordance with s. 390.0111(2) ~~s. 797.03~~ and may not impose an unconstitutional burden on a woman's freedom to decide whether to obtain an abortion ~~terminate her pregnancy~~.

(c) The rules shall provide for:

1. The performance of abortion ~~pregnancy termination~~ procedures only by a licensed physician.

2. The making, protection, and preservation of patient records, which shall be treated as medical records under chapter 458.

(3) For clinics that perform or claim to perform abortions after the first trimester of pregnancy, the agency shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter, including the following:

(a) Rules for an abortion clinic's physical facilities. At a minimum, these rules shall prescribe standards for:

1. Adequate private space that is specifically designated for interviewing, counseling, and medical evaluations.

2. Dressing rooms for staff and patients.

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3. Appropriate lavatory areas.

4. Areas for preprocedure hand washing.

5. Private procedure rooms.

6. Adequate lighting and ventilation for abortion procedures.

7. Surgical or gynecological examination tables and other fixed equipment.

8. Postprocedure recovery rooms that are equipped to meet the patients' needs.

9. Emergency exits to accommodate a stretcher or gurney.

10. Areas for cleaning and sterilizing instruments.

11. Adequate areas for the secure storage of medical records and necessary equipment and supplies.

12. The display in the abortion clinic, in a place that is conspicuous to all patients, of the clinic's current license issued by the agency.

13. Conspicuous written notice to be provided on the premises and on any advertisement of the abortion clinic, which must state that the abortion clinic is prohibited, except in a medical emergency, from performing abortions in the third trimester or after the fetus has attained viability.

(6) The agency may adopt and enforce rules, in the interest of protecting the public health, to ensure the prompt and proper disposal of fetal remains and tissue resulting from an abortion ~~pregnancy termination~~.

Section 6. Subsection (1) of section 390.014, Florida Statutes, is amended, and subsections (5), (6), and (7) are added to that section to read:

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390.014 Licenses; fees.—

(1) The requirements of part II of chapter 408 ~~shall~~ apply to the provision of services that require licensure pursuant to ss. 390.011-390.018 and part II of chapter 408 and to entities licensed by or applying for such licensure from the agency ~~for Health Care Administration pursuant to ss. 390.011-390.018. A license issued by the agency is required in order to operate a clinic in this state.~~

(5) A person may not establish, conduct, manage, or operate a clinic in this state without a valid and current license issued by the agency.

(6) A clinic must be wholly owned and operated by one or more physicians who received residency training in performing dilation-and-curettage and dilation-and-evacuation procedures or by a professional corporation or limited liability company composed solely of one or more such physicians. This subsection does not apply to clinics licensed before July 1, 2012, or to the renewal of licenses held by such clinics.

(7) A person who willfully violates subsection (5) or subsection (6) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 7. Section 390.018, Florida Statutes, is amended to read:

390.018 Administrative fine.—In addition to the requirements of part II of chapter 408, the agency may impose a fine upon the clinic in an amount not to exceed \$5,000 ~~\$1,000~~ for each violation of any provision of this chapter, part II of chapter 408, or applicable rules.

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813 Section 8. Subsection (7) of section 456.013, Florida
814 Statutes, is amended to read:

815 456.013 Department; general licensing provisions.—

816 (7) (a) The boards, or the department when there is no
817 board, shall require the completion of a 2-hour course relating
818 to prevention of medical errors as part of the licensure and
819 renewal process. The 2-hour course shall count towards the total
820 number of continuing education hours required for the
821 profession. The course shall be approved by the board or
822 department, as appropriate, and shall include a study of root-
823 cause analysis, error reduction and prevention, and patient
824 safety. In addition, the course approved by the Board of
825 Medicine and the Board of Osteopathic Medicine shall include
826 information relating to the five most misdiagnosed conditions
827 during the previous biennium, as determined by the board. If the
828 course is being offered by a facility licensed pursuant to
829 chapter 395 for its employees, the board may approve up to 1
830 hour of the 2-hour course to be specifically related to error
831 reduction and prevention methods used in that facility.

832 (b) In accordance with s. 390.0111, the board, or the
833 department if there is no board, shall require a physician who
834 offers to perform or performs abortions in an abortion clinic to
835 annually complete a 3-hour course related to ethics as part of
836 the licensure and renewal process. The 3-hour course shall count
837 toward the total number of continuing education hours required
838 for the profession. The applicable board, or the department if
839 there is no board, shall approve the course, as appropriate.

840 Section 9. Section 765.113, Florida Statutes, is amended

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to read:

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

(1) Abortion, sterilization, electroshock therapy, psychosurgery, experimental treatments that have not been approved by a federally approved institutional review board in accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56, or voluntary admission to a mental health facility.

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

Section 10. Section 782.30, Florida Statutes, is repealed.

Section 11. Section 782.32, Florida Statutes, is repealed.

Section 12. Section 782.34, Florida Statutes, is repealed.

Section 13. Section 782.36, Florida Statutes, is repealed.

Section 14. Section 797.02, Florida Statutes, is repealed.

Section 15. Section 797.03, Florida Statutes, is repealed.

Section 16. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 17. This act shall take effect July 1, 2012.