By Senator Flores

38-00165D-12 2012290__

A bill to be entitled

An act relating to abortions; amending s. 390.011, F.S.; providing definitions; amending s. 390.0111, F.S.; conforming terminology to changes made by the act; restricting the circumstances in which an abortion may be performed in the third trimester or after viability; providing certain physician and location requirements with regard to performing abortions; requiring a physician who offers to perform or who performs abortions to complete continuing education related to ethics; prohibiting an abortion from being performed in the third trimester in a location other than a hospital; prohibiting any abortion from being performed in a location other than a hospital, abortion clinic, or physician's office; requiring that certain requirements be completed 24 hours before an abortion is performed in order for consent to an abortion to be considered voluntary and informed; conforming terminology; providing that substantial compliance or reasonable belief that noncompliance with the requirements regarding consent 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 is a defense to a disciplinary action under s. 458.331 or s. 459.015, F.S.; deleting the definition of the term "viability"; providing that the prevention of the death or a substantial and irreversible impairment of a major bodily function of the pregnant woman

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constitutes an overriding and superior consideration to the concern for the life and health of the fetus under certain circumstances; prohibiting a physician from knowingly performing a partial-birth abortion and thereby killing a human fetus; providing exceptions for when a partial-birth abortion is necessary; increasing the penalty imposed for failing to properly dispose of fetal remains; requiring the Department of Health to permanently revoke the license of any health care practitioner who is convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, certain felony criminal acts; providing that an infant born alive subsequent to an attempted abortion is entitled to the same rights, powers, and privileges as are granted by the laws of this state; requiring a health care practitioner to exercise the same degree of professional skill, care, and diligence to preserve the life and health of an infant as a reasonably diligent and conscientious health care practitioner would render to any infant born alive if the infant is born alive subsequent to an attempted abortion; requiring that another physician be present in order to take control of any infant born alive; requiring the physician who performs the abortion to take all reasonable steps consistent with the abortion procedure to preserve the life and health of the unborn child; requiring a health care practitioner who has knowledge of any violations to report the

violations to the department; providing that it is a first-degree misdemeanor to unlawfully advertise how to obtain an abortion; requiring an abortion clinic to place a conspicuous notice on its premises and on any form or medium of advertisement of the abortion clinic which states that the abortion clinic is prohibited from performing abortions in the third trimester or after viability; providing a penalty; requiring the Agency for Health Care Administration to submit to the Governor and Legislature an annual report of aggregate statistical data relating to abortions and provide such data on its website; amending s. 390.01114, F.S.; conforming terminology to changes made by the act; deleting the definition of the term "medical emergency"; amending s. 390.0112, F.S.; requiring the director of a hospital, abortion clinic, or physician's office to submit a monthly report 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 Centers for Disease Control and Prevention; requiring that the submitted report not contain any personal identifying information; requiring the agency to submit reported data to the Division of Reproductive Health within the Centers for Disease Control and Prevention; requiring the physician performing the abortion procedure to report such data if the abortion was performed in a hospital, abortion clinic, or physician's office; requiring the agency to adopt rules; amending s.

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390.012, F.S.; conforming a cross-reference; requiring the agency to adopt rules that prescribe standards for placing conspicuous notice to be provided on the premises and on any advertisement of an abortion clinic which states that the abortion clinic is prohibited from performing abortions in the third trimester or after viability; conforming terminology to changes made by the act; amending s. 390.014, F.S.; prohibiting a person from establishing, conducting, managing, or operating a clinic in this state without a valid and current license issued by the agency; requiring an abortion clinic to be owned and operated by a physician who has received training during residency in performing a dilation-and-curettage procedure or a dilation-and-evacuation procedure or by a corporation or limited liability company composed of one or more such physicians; providing an exception; providing a penalty; amending s. 390.018, F.S.; revising the amount of the fine that the agency may impose for a violation of ch. 390, F.S., relating to abortion, or part II of ch. 408, F.S., relating to licensure; amending s. 456.013, F.S.; requiring that each applicable board require a physician who offers to perform or performs abortions to annually complete a course relating to ethics as part of the licensure 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,

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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.

(4) "Born alive" means the complete expulsion or extraction from the mother of a human infant, at any stage of development, who, after such expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical cord, or definite and voluntary movement of muscles, regardless of whether the

umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, induced abortion, or other method.

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

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

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

(8) "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 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.

(9) ~~(6)~~ "Partial-birth abortion" means an abortion ~~a termination of pregnancy~~ in which the physician performing the abortion: ~~termination of pregnancy partially vaginally delivers a living fetus before killing the fetus and completing the delivery.~~

(a) Deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in

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the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

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

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

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

(12) "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.

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

390.0111 Abortions ~~Termination of pregnancies~~.—

(1) ABORTION ~~TERMINATION~~ IN THIRD TRIMESTER OR AFTER VIABILITY~~; WHEN ALLOWED~~.—An abortion may not ~~No termination of pregnancy shall~~ be performed ~~on any human being~~ in the third trimester or after the period at which, in the best medical judgment of the physician, the fetus has attained viability ~~of pregnancy~~ unless:

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

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

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

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

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

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

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

2. In cases in which subparagraph 1. does not apply, in a location other than a hospital, a validly licensed abortion clinic, or a physician's office.

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

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

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

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

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

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

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

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

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

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

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

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

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

b. A list of entities that offer alternatives to <u>abortion</u>

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~~terminating the pregnancy~~.

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

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

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

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

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

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

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

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

(c) This subsection does ~~shall~~ not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or

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physical injury, including a life-endangering physical condition cause by or arising from the pregnancy itself, if ~~provided that~~ no other medical procedure would suffice for that purpose.

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

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

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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.

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

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

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

(a) The father, if married to the mother at the time she receives a partial-birth abortion, and, if the mother has not attained the age of 18 years at the time she receives a partial-birth abortion, the maternal grandparents of the fetus may, in a civil action, obtain appropriate relief, unless the pregnancy

resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

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

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

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

(12) INFANTS BORN ALIVE.—

(a) An infant born alive subsequent to an attempted abortion is entitled to the same rights, powers, and privileges 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 person, real or fictitious, from whom, or to any place, house, shop, or office where any poison, drug, mixture, preparation, medicine, or noxious thing, or any instrument or means whatever, or any advice, direction, information, or knowledge that may be obtained for the purpose of performing an abortion in violation of this chapter.

(b) An abortion clinic must provide conspicuous written notice on its premises and on any advertisement 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.

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

(14) RESPONSIBILITIES OF THE AGENCY.—Before each regular legislative session, the agency shall report aggregate statistical data relating to abortions, which has been reported to the Division of Reproductive Health within the Centers for Disease Control and Prevention, on its website and provide an

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annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding such data. Any information required to be reported under this subsection must not include any personal identifying information.

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

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

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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 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

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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 of the parent or guardian provided notice, the phone number dialed, and the date and time of the call. If constructive notice is given, the physician must document that notice by placing copies of any document related to the constructive notice, including, but not limited to, a copy of the letter and the return receipt, in the minor's medical file. Actual notice given by telephone shall be confirmed in writing, signed by the physician, and mailed 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, with delivery restricted to the parent or legal guardian.

(b) Notice is not required if:

1. In the physician's good faith clinical judgment, a medical emergency exists and there is insufficient time for the attending physician to comply with the notification requirements. If a medical emergency exists, the physician shall make reasonable attempts, whenever possible, without endangering the minor, to contact the parent or legal guardian, and may proceed, but must document reasons for the medical necessity in the patient's medical records. The physician shall provide notice directly, in person or by telephone, to the parent or legal guardian, including details of the medical emergency and any additional risks to the minor. If the parent or legal

guardian has not been notified within 24 hours after the abortion ~~termination of the pregnancy~~, the physician shall provide notice in writing, including details of the medical emergency and any additional risks to the minor, signed by the physician, 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, 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 minor.

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

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

(c) If the court finds, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to obtain an abortion ~~terminate her pregnancy~~, the court shall

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issue an order authorizing the minor to consent to the performance or inducement of an abortion ~~a termination of pregnancy~~ without the notification of a parent or guardian. If the court does not make the finding specified in this paragraph or paragraph (d), it must dismiss the petition. Factors the court shall consider include:

1. The minor's:

a. Age.

b. Overall intelligence.

c. Emotional development and stability.

d. Credibility and demeanor as a witness.

e. Ability to accept responsibility.

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

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

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

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

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

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

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

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

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

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

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

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

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(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 Centers for Disease Control and Prevention. The report must not contain any personal identifying information ~~which contains the number of procedures~~

~~performed, the reason for same, and the period of gestation at the time such procedures were performed to the agency~~. The agency shall be responsible for keeping such reports in a central place from which statistical data and analysis can be made. The agency shall submit reported data to the Division of Reproductive Health within the Centers for Disease Control and Prevention.

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

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

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

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

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:

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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.

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:

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~~

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~~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.

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

456.013 Department; general licensing provisions.—

(7)(a) The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the licensure and

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renewal process. The 2-hour course shall count towards the total number of continuing education hours required for the profession. The course shall be approved by the board or department, as appropriate, and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. In addition, the course approved by the Board of Medicine and the Board of Osteopathic Medicine shall include information relating to the five most misdiagnosed conditions during the previous biennium, as determined by the board. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

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

Section 9. Section 765.113, Florida Statutes, is amended 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. 390.0111(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.

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