

By Senator Wise

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A bill to be entitled

An act relating to abortion; creating the "Florida for Life Act"; creating s. 390.0001, F.S.; providing legislative findings regarding abortion; creating s. 390.01113, F.S.; providing definitions; prohibiting inducing, performing, attempting to perform, or assisting in induced abortions; providing criminal penalties; prohibiting inflicting serious bodily injury on a person in the course of performing an abortion; providing criminal penalties; providing enhanced criminal penalties if the serious bodily injury results in death; prohibiting operation of any facility, business, or service within this state for the purpose of providing induced abortion services; providing criminal penalties; prohibiting termination of a pregnancy unless specified conditions are met; requiring that a termination of pregnancy be performed only by a physician; requiring voluntary, informed consent for a termination of pregnancy; providing an exception for medical emergencies; providing for documentation of a medical emergency; providing that violations may subject physicians to discipline under specified provisions; providing a standard of medical care to be used during a termination of pregnancy performed while the patient's fetus is viable; providing that the woman's life is a superior consideration to the concern for the life of the fetus and the woman's health is a superior consideration to the concern for the health of the fetus when such life

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or health concerns are in conflict; prohibiting a physician's misrepresentation of the gestational age or developmental stage of a viable fetus in any medical record and failing to use the prescribed standard of care on a viable fetus; providing criminal penalties; prohibiting fetal experimentation; providing an exception; requiring that fetal remains be disposed of according to specified standards; providing criminal penalties; excluding specified procedures from application of the section; requiring physicians and personnel at a medical facility to provide certain women and minors who have been treated by the facility with information regarding adoption and a statewide list of attorneys available to provide volunteer legal services for adoption; providing that violation of certain provisions by a physician may be grounds for discipline; providing rulemaking authority to the Agency for Health Care Administration and the Department of Health; creating s. 390.01117, F.S.; providing that the section takes effect only if s. 390.01113, F.S., is declared unconstitutional or has its enforcement enjoined; providing definitions; prohibiting termination of a pregnancy after a fetus has been determined to be viable; providing exceptions; requiring a determination of viability for women in a certain week of pregnancy or later before termination may be performed; requiring an ultrasound and recordkeeping; providing that determination of viability and a required ultrasound may not be

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performed by a physician providing reproductive health services at an abortion clinic; requiring that a termination of pregnancy involving a viable fetus, when not prohibited, be performed in a hospital or other medical facility; providing a standard of care for a termination of pregnancy performed while a fetus is viable; providing that the woman's life is a superior consideration to the concern for the life of the fetus and the woman's health is a superior consideration to the concern for the health of the fetus when such life or health concerns are in conflict; prohibiting a physician' misrepresentation of the gestational age or developmental stage of a viable fetus in any medical record and failing to use the prescribed standard of care on a viable fetus; providing criminal penalties; providing that only a physician may perform a termination of pregnancy; requiring voluntary and informed consent for a termination of pregnancy; providing an exception for medical emergencies; providing for documentation of a medical emergency; providing that violations may subject physicians to discipline; prohibiting experimentation on a fetus; providing an exception; requiring that fetal remains be disposed of according to specified standards; providing criminal penalties; providing that no person or facility is required to participate in the termination of a pregnancy or be liable for such refusal; excluding specified procedures from application of the section;

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prohibiting a termination of pregnancy procedure in violation of specified requirements; providing criminal penalties; prohibiting inflicting serious bodily injury on a person in the course of performing a termination of pregnancy; providing criminal penalties; providing enhanced criminal penalties if the serious bodily injury results in death; requiring physicians and personnel at a medical facility to provide certain women and minors who have been treated by the facility with information regarding adoption and a statewide list of attorneys available to provide volunteer legal services for adoption; providing rulemaking authority to the Agency for Health Care Administration and the Department of Health; providing that rulemaking authority is supplemental to s. 390.012, F.S.; amending s. 39.001, F.S.; providing legislative intent concerning adoption services for women with unwanted pregnancies; requiring the Office of Adoption and Child Protection to create and manage a statewide list of attorneys providing volunteer adoption services for women with unwanted pregnancies who would have selected abortion, if lawful, rather than adoption; providing that all federal moneys received by the state as a result of efforts made by the office to provide legal services have deposited, directed and budgeted the full amount for its use; repealing s. 390.011, F.S., relating to definitions; repealing s. 390.0111, F.S., relating to termination of pregnancies; repealing s. 390.01114, F.S., which

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creates the Parental Notice of Abortion Act; repealing s. 390.01116, F.S., relating to public records exemptions for identifying information regarding minors seeking a waiver of notice requirements under the Parental Notice of Abortion Act; repealing s. 390.0112, F.S., relating to termination of pregnancy reporting; repealing s. 390.012, F.S., relating to powers of the Agency for Health Care Administration, rulemaking, and the disposal of fetal remains; repealing s. 390.014, F.S., relating to licenses and fees; repealing s. 390.015, F.S., relating to application for license; repealing s. 390.018, F.S., relating to administrative fines; repealing s. 390.025, F.S., relating to abortion referral or counseling agencies and penalties; repealing s. 782.30, F.S., relating to the short title for the Partial-Birth Abortion Act; repealing s. 782.32, F.S., relating to definitions for the Partial-Birth Abortion Act; repealing s. 782.34, F.S., relating to partial-birth abortion; repealing s. 782.36, F.S., relating to exceptions to the Partial-Birth Abortion Act; amending s. 27.511, F.S.; conforming language relating to court-appointed counsel for minors under the Parental Notice of Abortion Act to the repeal of s. 390.01114, F.S.; amending ss. 627.64995, 627.6699, 627.66996, and 641.31099, F.S.; providing restrictions on use of state and federal funds for state exchanges that provide coverage for induced abortions and terminations of pregnancies under certain conditions;

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amending ss. 743.065 and 765.113, F.S.; conforming cross-references; providing that if s. 390.01117, F.S., is declared unconstitutional or has its enforcement enjoined, the repeal of s. 390.011, F.S., and the amendment of s. 39.001, F.S., are void and of no effect; providing legislative intent; providing that if s. 390.01113, F.S., is declared unconstitutional or has its enforcement enjoined, specified statutory repeals and amendments contained in this act are void and of no effect; providing legislative intent; providing an effective date.

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

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

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

390.0001 Legislative findings regarding abortion.—

(1) The Legislature acknowledges that all persons are endowed by their Creator with certain unalienable rights, and that first among these is their right to life.

(2) The Legislature finds that all human life comes from the Creator, has an inherent value that cannot be quantified by man, and begins at conception.

(3) The Legislature finds that the United States Constitution expresses no qualification for, or limitation on, the protection of human life by laws passed by state legislatures which regard human life as the most fundamental

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175 gift from God and deserving of paramount importance among all
176 other unalienable rights expressed or implied in the United
177 States Constitution.

178 (4) The Legislature finds that personal liberty is not a
179 license to kill an innocent human life under any provision of
180 the United States Constitution.

181 (5) The Legislature finds that once human life begins there
182 is a compelling state interest in protecting the natural course
183 of its development from that moment through birth. Any act of a
184 person detrimental to an unborn human life, when not necessary
185 in defense of the life of the mother bearing such unborn life,
186 which unnaturally terminates that unborn life, is a deprivation
187 of that unborn child's unalienable right to life.

188 (6) The Legislature finds that the establishment of
189 viability as the point at which the state may restrict
190 abortions, as well as the "undue burden" standard of *Planned*
191 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833
192 (1992) is arbitrary and provides inadequate guidance for this
193 state to enact meaningful protections for fetal life.

194 (7) The Legislature finds that the health exception
195 required of post-viability abortion regulations inadequately
196 protects the health of women seeking post-viability abortions
197 and impedes the state's protection of viable fetal life.

198 (8) The Legislature finds that the people of Florida seek
199 to protect unborn human life and prohibit unnecessary abortion
200 through the exercise of their right to self-government.

201 (9) The Legislature urges the United States Supreme Court
202 to overturn *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned*
203 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833

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(1992).

Section 3. Section 390.01113, Florida Statutes, is created to read:

390.01113 Abortion unlawful; termination of pregnancies circumstances authorized.—

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

(a) "Induced abortion" means a medically initiated termination of a human pregnancy with the intent to kill a human embryo or fetus that is not dying of natural causes. For purposes of this paragraph, the term "medically initiated" refers to the ingestion or administration of pharmaceutical abortifacients by any means, surgical procedures, or use of any device or instrument, as well as any combination thereof.

(b) "Medical emergency" means a condition that, on the basis of a physician's good faith clinical judgment, so complicates the medical condition of a patient 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 or unreasonably reduce the likelihood of successful treatment of a life-threatening disease.

(c) "Patient" means the woman or minor upon whom an abortion or termination of pregnancy is performed or induced.

(d) "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.

(e) "Termination of pregnancy" means the termination of a human pregnancy under circumstances not prohibited by this section.

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(f) "Viability" means that stage of fetal development when, in the judgment of a physician based on the particular facts of the case before him or her and in light of the most advanced medical technology and information available, there is a reasonable probability of sustained survival of the unborn child outside his or her mother's womb with or without artificial support.

(2) INDUCED ABORTION PROHIBITED.—

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

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

(c) Any person who during the course of performing an induced abortion on another person inflicts serious bodily injury on the person which results in the death of the person commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) OPERATING ABORTION SERVICES PROHIBITED.—A person who operates any facility, business, or service from any location within this state for the purpose of providing induced abortion services commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life as provided in s. 775.082, s. 775.083, or s. 775.084.

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262 (4) TERMINATION OF PREGNANCY.—A termination of pregnancy
263 may not be performed unless:

264 (a) Two physicians certify in writing to the fact that, to
265 a reasonable degree of medical certainty, the termination of
266 pregnancy is necessary to prevent the death of the patient;

267 (b) Two physicians certify in writing to the fact that, to
268 a reasonable degree of medical certainty, the termination of
269 pregnancy is necessary because to continue the pregnancy would
270 unreasonably reduce the likelihood of successful treatment of a
271 life-threatening disease of the patient; or

272 (c) A physician certifies in writing that a medical
273 emergency existed and another physician was not available for
274 consultation prior to the time necessary to perform the
275 termination of pregnancy. The physician's written certification
276 must clearly describe the medical emergency.

277 (5) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of
278 pregnancy may be performed at any time except by a physician.

279 (6) CONSENTS REQUIRED.—A termination of pregnancy may not
280 be performed or induced except with the voluntary and informed
281 written consent of the patient or, in the case of a mentally
282 incompetent patient, the voluntary and informed written consent
283 of her court-appointed guardian or, in the case of a minor
284 patient, notwithstanding s. 743.065, the voluntary informed
285 consent of the minor's parent or legal guardian.

286 (a) Except in the case of a medical emergency, consent to a
287 termination of pregnancy is voluntary and informed only if the
288 physician who is to perform the procedure or the referring
289 physician has personally informed the patient, or the court-
290 appointed guardian if the patient is mentally incompetent or a

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parent or guardian if the patient is a minor, of:

1. The nature and risks of undergoing or not undergoing the proposed procedure that a reasonable patient similarly situated may consider relevant to making an informed decision of whether to terminate a pregnancy.

2. The medical risks to the patient and fetus of carrying the pregnancy to term.

(b) In the event a medical emergency exists and a physician cannot comply with the requirements for informed consent, a physician may 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 patient. In the event no second physician is 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 complying with the requirements of informed consent would threaten the life of the patient may be raised as a defense to any action brought for a violation of this subsection.

(7) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—

(a) If a termination of pregnancy is performed while the patient's fetus is viable, no person who performs or induces the termination of pregnancy shall fail to use that degree of professional skill, care, and diligence to preserve the life and health of the fetus that such person would be required to

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320 exercise in order to preserve the life and health of a fetus
321 intended to be born and not aborted. Notwithstanding the
322 provisions of this subsection, the patient's life shall
323 constitute an overriding and superior consideration to the
324 concern for the life of the fetus, and the patient's health
325 shall constitute an overriding and superior consideration to the
326 concern for the health of the fetus when such life or health
327 concerns are in conflict. For purposes of this subsection,
328 health considerations refer to medical judgment exercised in
329 light of factors exclusively regarding the physical well-being
330 of the patient.

331 (b) Any physician who, once the matter of the viability or
332 nonviability of the fetus has been determined within a
333 reasonable degree of medical probability, knowingly and
334 willfully misrepresents the gestational age or stage of fetal
335 development of a viable fetus in an entry into any medical
336 record and who fails to use the standard of care required under
337 paragraph (a) on any fetus determined to be viable commits a
338 felony of the first degree, punishable as provided in s.
339 775.082, s. 775.083, or s. 775.084.

340 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No
341 person shall use any live fetus or live, premature infant for
342 any type of scientific, research, laboratory, or other kind of
343 experimentation prior to or subsequent to any termination of
344 pregnancy procedure except as necessary to protect or preserve
345 the life and health of such fetus or premature infant.

346 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a
347 sanitary and appropriate manner and in accordance with standard
348 health practices, as provided by rule of the Department of

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Health. A person who fails to dispose of fetal remains in accordance with department rules commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10) EXCLUSION FROM APPLICATION.— The provisions of this section do not apply to the performance of a procedure that terminates a pregnancy in order to deliver a live child or to remove a dead or dying fetus whose demise was not the product of a termination of pregnancy or an induced abortion from the patient's body.

(11) ADOPTION ALTERNATIVE INFORMATION.—Any physician or authorized personnel of a medical facility who learns that a pregnant woman or minor treated at the facility wishes to obtain an induced abortion, or that a patient has had a termination of pregnancy where the fetus survived, shall provide the woman or minor with information concerning the availability of adoption for her unwanted child. Compliance with this subsection may be accomplished by providing the woman with the address and telephone number of the Office of Adoption and Child Protection within the Executive Office of the Governor and inform her of the existence of the statewide list of attorneys available to provide volunteer legal services for adoption maintained by that office.

(12) PENALTIES FOR CERTAIN VIOLATIONS.—Violation of subsection (4), subsection (7), or subsection (8) by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015.

(13) RULEMAKING AUTHORITY.—

(a) Except for subsection (9), the Agency for Health Care

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Administration may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. These rules shall be for the purpose of protecting the health and safety of women and unborn human life and for the purpose of securing compliance with the requirements of this section and to facilitate the enforcement of sanctions for those violations to which administrative penalties apply.

(b) The Department of Health may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of subsection (9).

Section 4. Section 390.01117, Florida Statutes, is created to read:

390.01117 Termination of pregnancies.—

(1) APPLICATION.—This section is superseded by s. 390.01113 and shall become effective only in the event that s. 390.01113 is declared unconstitutional or has its enforcement enjoined. In the event this section becomes effective, it shall supersede s. 390.0111.

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

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

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

1. A hospital; or

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

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407 (c) "Agency" means the Agency for Health Care
408 Administration.

409 (d) "Department" means the Department of Health.

410 (e) "Hospital" means a facility as defined in s.
411 395.002(12) and licensed under chapter 395 and part II of
412 chapter 408.

413 (f) "Patient" means the woman or minor upon whom an
414 abortion or termination of pregnancy is performed or induced.

415 (g) "Physician" means a physician licensed under chapter
416 458 or chapter 459 or a physician practicing medicine or
417 osteopathic medicine in the employment of the United States.

418 (h) "Viability" means that stage of fetal development when,
419 in the judgment of the physician based on the particular facts
420 of the case before him or her and in light of the most advanced
421 medical technology and information available, there is a
422 reasonable probability of sustained survival of the unborn child
423 outside his or her mother's womb with or without artificial
424 support.

425 (3) TERMINATION AFTER VIABILITY PROHIBITED; EXCEPTION.—No
426 termination of pregnancy shall be performed on any human being
427 when it has been determined, in accordance with subsection (4),
428 that the fetus is viable unless:

429 (a) Two physicians certify in writing to the fact that, to
430 a reasonable degree of medical certainty, the termination of
431 pregnancy is necessary to prevent the death of the patient or
432 avert a significant risk to her physical health;

433 (b) Two physicians certify in writing to the fact that, to
434 a reasonable degree of medical certainty, the termination of
435 pregnancy is necessary because to continue the pregnancy would

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unreasonably reduce the likelihood of successful treatment of a life-threatening disease of the patient; or

(c) The physician certifies in writing to the medical necessity for legitimate emergency medical procedures for the termination of pregnancy and another physician is not available for consultation. The physician's written certification must clearly describe the medical emergency.

(4) DETERMINATION OF VIABILITY.—No termination of pregnancy may be induced or performed on any patient who is in the 22nd week of pregnancy or later without first obtaining an ultrasound from a physician to determine the stage of fetal development. The physician shall estimate as accurately as possible the stage of fetal development and shall indicate on the patient's medical records the gestational age, length and weight, and lung maturity of the fetus. The physician shall also indicate on the patient's medical records whether, within a reasonable degree of medical probability, the fetus is viable. Due to the potential of an inherent conflict of interest, the determination of viability and the performance of the ultrasound required under this subsection may not be performed by a physician who provides reproductive health services at an abortion clinic.

(5) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—

(a) A termination of pregnancy involving a viable fetus, when not prohibited in accordance with subsection (3), must be performed in a hospital or other medical facility capable of providing all necessary lifesaving or life-sustaining medical services to the viable fetus.

(b) If a termination of pregnancy is performed while the patient's fetus is viable, no person who performs or induces the

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465 termination of pregnancy shall fail to use that degree of
466 professional skill, care, and diligence to preserve the life and
467 health of the fetus which such person would be required to
468 exercise in order to preserve the life and health of any fetus
469 intended to be born and not aborted. Notwithstanding the
470 provisions of this subsection, the patient's life shall
471 constitute an overriding and superior consideration to the
472 concern for the life of the fetus, and the patient's health
473 shall constitute an overriding and superior consideration to the
474 concern for the health of the fetus when such life or health
475 concerns are in conflict. For purposes of this subsection,
476 health considerations refer to medical judgment exercised in
477 light of factors exclusively regarding the physical well-being
478 of the patient. Violation of this subsection by a physician
479 constitutes grounds for disciplinary action under s. 458.331 or
480 s. 459.015.

481 (c) Any physician who, once the matter of the viability or
482 nonviability of the fetus has been determined within a
483 reasonable degree of medical probability, knowingly and
484 willfully misrepresents the gestational age or stage of fetal
485 development of a viable fetus in an entry into any medical
486 record and who fails to use the standard of care required under
487 paragraph (b) on any fetus determined to be viable commits a
488 felony of the first degree, punishable as provided in s.
489 775.082, s. 775.083, or s. 775.084.

490 (6) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of
491 pregnancy may be performed at any time except by a physician.

492 (7) CONSENTS REQUIRED.—A termination of pregnancy may not
493 be performed or induced except with the voluntary and informed

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494 written consent of the patient or, in the case of a mentally
495 incompetent patient, the voluntary and informed written consent
496 of her court-appointed guardian or, in the case of a pregnant
497 minor, notwithstanding s. 743.065, the voluntary informed
498 consent of the minor's parent or guardian.

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

501 1. The physician who is to perform the procedure or the
502 referring physician has personally informed the patient, or the
503 court-appointed guardian if the patient is mentally incompetent
504 or a parent or guardian in the case of a minor patient, of:

505 a. The nature and risks of undergoing or not undergoing the
506 proposed procedure that a reasonable patient similarly situated
507 may consider relevant to making an informed decision of whether
508 to terminate a pregnancy.

509 b. The probable gestational age of the fetus at the time
510 the termination of pregnancy is to be performed.

511 c. The medical risks to the patient and fetus of carrying
512 the pregnancy to term.

513 d. All other factors, physical, emotional, psychological,
514 and familial, relevant to the short-term and long-term well-
515 being of the patient, including emotional and psychological
516 impact relating to the loss of the life of a child.

517 2. Printed materials prepared and provided by the
518 department have been provided to the patient, if she chooses to
519 view these materials, including:

520 a. A description of the fetus.

521 b. A list of agencies that offer alternatives to
522 terminating the pregnancy.

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

526 3. The person required to give consent under this
527 subsection acknowledges in writing, before the termination of
528 pregnancy, that the information required to be provided under
529 this subsection has been provided.

530 (b) In the event a medical emergency exists and a physician
531 cannot comply with the requirements for informed consent, a
532 physician may terminate a pregnancy if he or she has obtained at
533 least one corroborative medical opinion attesting to the medical
534 necessity for emergency medical procedures and to the fact that,
535 to a reasonable degree of medical certainty, the continuation of
536 the pregnancy would threaten the life of the patient. In the
537 event no second physician is available for a corroborating
538 opinion, the physician may proceed but shall document reasons
539 for the medical necessity in the patient's medical records.

540 (c) Violation of this subsection by a physician constitutes
541 grounds for disciplinary action under s. 458.331 or s. 459.015.
542 Substantial compliance or reasonable belief that complying with
543 the requirements of informed consent would threaten the life or
544 health of the patient may be raised as a defense to any action
545 brought under this subsection.

546 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No
547 person shall use any live fetus or live, premature infant for
548 any type of scientific, research, laboratory, or other kind of
549 experimentation prior to or subsequent to any termination of
550 pregnancy procedure except as necessary to protect or preserve
551 the life and health of such fetus or premature infant. Violation

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552 of this subsection by a physician constitutes grounds for
553 disciplinary action under s. 458.331 or s. 459.015.

554 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a
555 sanitary and appropriate manner and in accordance with standard
556 health practices, as provided by rule of the Department of
557 Health. A person who fails to dispose of fetal remains in
558 accordance with department rules commits a misdemeanor of the
559 first degree, punishable as provided in s. 775.082 or s.
560 775.083.

561 (10) REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—
562 Nothing in this section shall require any hospital or any person
563 to participate in the termination of a pregnancy, nor shall any
564 hospital or any person be liable for such refusal. No person who
565 is a member of, or associated with, the staff of a hospital, nor
566 any employee of a hospital or physician in which or by whom the
567 termination of a pregnancy has been authorized or performed, who
568 states an objection to such procedure shall be required to
569 participate in the procedure which will result in the
570 termination of pregnancy. The refusal of any such person or
571 employee to participate shall not form the basis for any
572 disciplinary or other recriminatory action against such person.

573 (11) EXCLUSION FROM APPLICATION.—The provisions of this
574 section do not apply to the performance of a procedure that
575 terminates a pregnancy in order to deliver a live child or to
576 remove a dead or dying fetus whose demise was not the product of
577 a termination of pregnancy or an abortion, from the patient's
578 body.

579 (12) PENALTIES FOR VIOLATION.—

580 (a) Any person who willfully induces, performs, or assists

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581 in a termination of pregnancy procedure on another person in
582 violation of the requirements of subsection (4), paragraph
583 (5) (a), or subsection (6) commits a felony of the second degree,
584 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

585 (b) Any person who willfully induces, performs, or assists
586 in a termination of pregnancy procedure on another person in
587 violation of subsection (3) commits a felony of the first
588 degree, punishable as provided in s. 775.082, s. 775.083, or s.
589 775.084.

590 (c) Any person who willfully induces, performs, or assists
591 in a termination of pregnancy procedure on another person in
592 violation of subsection (3) which results in serious bodily
593 injury to the person commits a felony of the first degree,
594 punishable by imprisonment for a term of years not exceeding
595 life as provided in s. 775.082, s. 775.083, or s. 775.084.

596 (d) Any person who induces, performs, or assists in a
597 termination of pregnancy procedure on another person in
598 violation of the provisions of this section which results in the
599 death of the person commits a life felony, punishable as
600 provided in s. 775.082, s. 775.083, or s. 775.084.

601 (13) ADOPTION ALTERNATIVE INFORMATION.—Any physician or
602 authorized personnel of a medical facility who learns that a
603 pregnant woman or minor treated at the facility wishes to obtain
604 an abortion, or that a patient has had a termination of
605 pregnancy at the facility under circumstances where the fetus
606 survived, shall provide the woman or minor with the address and
607 telephone number of the Office of Adoption and Child Protection
608 within the Executive Office of the Governor and inform her of
609 the existence of the statewide list of attorneys available to

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610 provide volunteer legal services for adoption maintained by that
611 office.

612 (14) RULEMAKING AUTHORITY.—

613 (a) Except for subsection (9), the Agency for Health Care
614 Administration may adopt rules pursuant to ss. 120.536(1) and
615 120.54 to implement the provisions of this section. These rules
616 shall be for the purpose of protecting the health and safety of
617 women and unborn human life. These rules are also for the
618 purpose of securing compliance with the requirements of this
619 section and to facilitate the enforcement of sanctions for those
620 violations to which administrative penalties apply.

621 (b) The Department of Health may adopt rules pursuant to
622 ss. 120.536(1) and 120.54 to implement the provisions of
623 subsection (9).

624 (c) The rulemaking authority granted in this subsection is
625 supplemental to the rulemaking authority provided in s. 390.012.

626 Section 5. Subsection (6) of section 39.001, Florida
627 Statutes, is amended, and paragraph (d) is added to subsection
628 (7) of that section, to read:

629 39.001 Purposes and intent; personnel standards and
630 screening.—

631 (6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
632 ABANDONMENT, AND NEGLECT OF CHILDREN; ADOPTION SERVICES FOR
633 WOMEN WITH UNWANTED PREGNANCIES.—The incidence of known child
634 abuse, abandonment, and neglect has increased rapidly in recent
635 ~~over the past 5~~ years. The impact that abuse, abandonment, or
636 neglect has on the victimized child, siblings, family structure,
637 and inevitably on all citizens of the state has caused the
638 Legislature to determine that the prevention of child abuse,

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abandonment, and neglect shall be a priority of this state. In addition, to provide assistance for women or minors with unwanted pregnancies who would have selected abortion, if lawful in this state, rather than adoption as an alternative for their unborn child, the Legislature has determined to offer such women or minors volunteer legal services to accomplish an appropriate adoptive placement for such newborn children. To further these ends ~~this end~~, it is the intent of the Legislature that an Office of Adoption and Child Protection be established.

(7) OFFICE OF ADOPTION AND CHILD PROTECTION.—

(d) In connection with the provision of volunteer legal services for women or minors with unwanted pregnancies who would have selected abortion, if lawful in this state, rather than adoption, the office shall:

1. Create and manage a statewide list of attorneys providing volunteer adoption services for such women and minors.

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

Section 6. Section 390.011, Florida Statutes, is repealed.

Section 7. Section 390.0111, Florida Statutes, is repealed.

Section 8. Section 390.01114, Florida Statutes, is repealed.

Section 9. Section 390.01116, Florida Statutes, is repealed.

Section 10. Section 390.0112, Florida Statutes, is

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repealed.

Section 11. Section 390.012, Florida Statutes, is repealed.

Section 12. Section 390.014, Florida Statutes, is repealed.

Section 13. Section 390.015, Florida Statutes, is repealed.

Section 14. Section 390.018, Florida Statutes, is repealed.

Section 15. Section 390.025, Florida Statutes, is repealed.

Section 16. Section 782.30, Florida Statutes, is repealed.

Section 17. Section 782.32, Florida Statutes, is repealed.

Section 18. Section 782.34, Florida Statutes, is repealed.

Section 19. Section 782.36, Florida Statutes, is repealed.

Section 20. Paragraph (a) of subsection (6) of section 27.511, Florida Statutes, is amended to read:

27.511 Offices of criminal conflict and civil regional counsel; legislative intent; qualifications; appointment; duties.—

(6) (a) The office of criminal conflict and civil regional counsel has primary responsibility for representing persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law in civil proceedings, including, but not limited to, proceedings under s. 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and proceedings to terminate parental rights under chapter 63. ~~Private court-appointed counsel eligible under s. 27.40 have primary responsibility for representing minors who request counsel under s. 390.01114, the Parental Notice of Abortion Act; however, the office of criminal conflict and civil regional counsel may represent a minor under that section if the court finds that no private court-appointed attorney is available.~~

Section 21. Subsection (1) of section 627.64995, Florida

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Statutes, is amended to read:

627.64995 Restrictions on use of state and federal funds for state exchanges.—

(1) A health insurance policy under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an induced abortion as defined in and prohibited under s. 390.01113 or for a termination of pregnancy in violation of s. 390.01113(4) ~~s. 390.011(1), except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~ Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the health insurance policy.

Section 22. Paragraph (a) of subsection (17) of section 627.6699, Florida Statutes, is amended to read:

627.6699 Employee Health Care Access Act.—

(17) RESTRICTIONS ON COVERAGE.—

(a) A plan under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an induced abortion, as defined in and prohibited under s. 390.01113 or for a termination of pregnancy in violation of s.

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390.01113(4) ~~s. 390.011(1), except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~ Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the plan.

Section 23. Subsection (1) of section 627.66996, Florida Statutes, is amended to read:

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

(1) A group, franchise, or blanket health insurance policy under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an induced abortion as defined in and prohibited under s. 390.01113 or for a termination of pregnancy in violation of s. 390.01113(4) ~~s. 390.011(1), except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~ Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the group, franchise, or blanket health

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insurance policy.

Section 24. Subsection (1) of section 641.31099, Florida Statutes, is amended to read:

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

(1) A health maintenance contract under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an induced abortion as defined in and prohibited under s. 390.01113 or for a termination of pregnancy in violation of s. 390.01113(4) ~~s. 390.011(1), except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~

Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the health maintenance contract.

Section 25. Subsection (3) of section 743.065, Florida Statutes, is amended to read:

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

~~(3) Nothing in this act shall affect the provisions of s. 390.0111.~~

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

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784 765.113 Restrictions on providing consent.—Unless the
785 principal expressly delegates such authority to the surrogate in
786 writing, or a surrogate or proxy has sought and received court
787 approval pursuant to rule 5.900 of the Florida Probate Rules, a
788 surrogate or proxy may not provide consent for:

789 (2) Withholding or withdrawing life-prolonging procedures
790 from a pregnant patient prior to viability as defined in s.
791 390.01113 ~~390.0111(4)~~.

792 Section 27. If s. 390.01117, Florida Statutes, as created
793 by this act, is declared unconstitutional or has its enforcement
794 permanently enjoined, the repeal of s. 390.011, Florida
795 Statutes, and the amendment of s. 39.001, Florida Statutes, by
796 this act, shall be deemed to be void and of no effect, it being
797 the legislative intent that these provisions would not have been
798 enacted had s. 390.01113 or s. 390.01117, Florida Statutes, not
799 been enacted as well.

800 Section 28. If s. 390.01113, Florida Statutes, as created
801 by this act, is declared unconstitutional or has its enforcement
802 permanently enjoined, the statutory repeals and amendments
803 contained in sections 6 through 26 of this act shall be deemed
804 to be void and of no effect, and the text of any amended
805 provisions shall revert to that in existence on the day before
806 the effective date of this act, except that any amendments to
807 such text enacted other than by this act shall be preserved and
808 continue to operate, it being the legislative intent that these
809 provisions would not have been enacted had s. 390.01113, Florida
810 Statutes, not been enacted as well.

811 Section 29. This act shall take effect July 1, 2012.